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.org.

CITY OF OXNARD CALIFORNIA

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

Council Chambers, 305 West Third Street
December 3, 2019
Closed Session - 4:30 PM
Appointment Items - 5:30 PM
Regular Meeting - 6:00 PM

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council, Housing Authority Board.

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)) (City Council)
Name of Case: In the Matter of: Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements
Public Utilities Commission Proceeding No. R.16-02-007.

D. APPOINTMENT ITEMS (5:30 PM)

1. Fire Department

SUBJECT: Southern California Edison, Wildfire Mitigation Planning and the Public Safety Power Shutoff Program. (15/10/10)

RECOMMENDATION: That the City Council receive a presentation from Ms. Rondi Guthrie, Government Relations Manager with Southern California Edison, on their current efforts in Wildfire Mitigation Planning and the Public Safety Power Shutoff Program.

Legislative Body: City Council

Contact: Darwin Base, (805) 385-7700

E. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

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: (Staff Presentation / Council Discussion / Public Comment)

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

At this time, the legislative body will consider public comments for a maximum of thirty minutes. 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 cards will not be accepted after the beginning of the general public comment period. Based on the number of speaker cards submitted, the presiding officer may impose time limits per speaker. Typically, speakers are limited to three minutes, but shorter time may be established as deemed necessary. A person not able to address the legislative body at this time because the thirty minutes expires may do so just 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 minutes of the November 5, 2019 regular meeting, November 7, 2019 special meeting, and November 19, 2019 regular meeting as presented.

Legislative Body: City Council

Contact: Michelle Ascencion, (805) 385-7805

2. City Attorney Department

SUBJECT: Council Committee Bylaws.

RECOMMENDATION: That the City Council adopt a resolution setting forth bylaws to establish regular meeting schedules for, powers and duties of, and types of business to be reviewed by the City Council committees established by Oxnard City Code Section 2-1.1. (Finance and Governance

Committee approved 3-0)

Legislative Body: City Council

Contact: Stephen Fischer, (805) 385-7483

3. Fire Department

SUBJECT: FY 18 Assistance to Firefighters Grant. (5/5/5)

RECOMMENDATION: That the City Council adopt a resolution authorizing:
1. The City Manager or designee to execute $291,818.18 in grant funds from the Fiscal Year (FY) 18 Assistance to Firefighters Grant (AFG) to educate and license three firefighters as paramedics;
2. The City Manager or designee to execute grant agreements and appropriate funds upon notification of grant award;
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve administrative budget appropriation for the use of AFG funds upon award; and
4. The Fire Chief or designee to submit all program related progress or status reports.
(Public Safety Committee approved 2-0)

Legislative Body: City Council

Contact: Darwin Base, (805) 385-7700

4. Housing Department

SUBJECT: Amending Funding Loan Agreement between Citibank, N.A., Funding Lender, and the Housing Authority of the City of Oxnard for $14,000,000 for Las Villas de Paseo Nuevo, which secured the issuance of Multi-Family Housing Revenue Bonds.

RECOMMENDATION: 1. That the City Council approve and amend the Funding Loan Agreement between Citibank, N.A. and Housing Authority of the City of Oxnard for the $14,000,000 loan originated on February 1, 2012 for the 72-unit affordable rental project Las Villas de Paseo Nuevo Apartments located 5637 to 5727 Cypress Road, Oxnard, allowing Citibank to standardize and securitize loans within its portfolio providing more capital for future project loans.
2. That the Housing Authority Board of Commissioners approve and amend the Funding Loan Agreement between Citibank, N.A. and Housing Authority of the City of Oxnard for the $14,000,000 loan originated on February 1, 2012 for Las Villas de Paseo Nuevo Apartments located at 5637 to 5727 Cypress Road, Oxnard, allowing Citibank to standardize and securitize or consolidate their loans within its portfolio providing more capital for future project loans.

Legislative Body: City Council, Housing Authority Board

Contact: Emilio Ramirez, (805) 385-8094

5. Police Department

SUBJECT: Supplemental Law Enforcement Services Fund.

RECOMMENDATION: That the City Council:
1. Recognize $318,079 in grant revenue from the State Supplemental Law Enforcement Services Fund (SLESF) for Citizens Option for Public Safety (COPS) Program;
2. Approve a budget appropriation in the amount of $318,079 for Body Worn Camera Storage Fees; and
3. Authorize the Chief Financial Officer or designee to approve additional budget appropriations if awarded.
(Public Safety Committee approved 2-0)

Legislative Body: City Council

Contact: Scott Whitney, (805) 385-7624

6. Police Department

SUBJECT: Federal and State Asset Forfeiture Funds.

RECOMMENDATION: That the City Council approve a budget appropriation in the amount of $320,786 for the use of Federal ($207,786) and State ($113,000) asset forfeiture funds allocated to the City of Oxnard Police Department. The funds will be used for training and equipment purchases not normally associated with general fund expenditures. (Public Safety Committee approved 2-0)

Legislative Body: City Council

Contact: Scott Whitney, (805) 385-7624

7. Public Works Department

SUBJECT: Award Agreement A-8184 to Huitt-Zollars for the Bicycle and Pedestrian Facilities Project.

RECOMMENDATION: That the City Council authorize the Mayor to sign and execute Agreement A-8184 in the amount of $218,137 with Huitt-Zollars for the Bicycle and Pedestrian Facilities Project No. 133102/163101. (Public Works and Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Rosemarie Gaglione, (805) 385-8055

8. Public Works Department

SUBJECT: Approval of Purchase Order with Gibbs Truck Centers for Two (2) Semi-Tractors.

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a Purchase Order with Gibbs Truck Centers in an amount not-to-exceed $209,048.46 for two (2) semi-tractors. (Public Works and Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Rosemarie Gaglione, (805) 385-8055

9. Public Works Department

SUBJECT: Award Agreements for On-Call Professional Engineering Services.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute:
1. Agreement No. A-8177 with Encompass Consultant Group, Inc. for On-Call Professional Engineering and Surveying Services for a three year term, not to exceed $500,000; and
2. Agreement No. A-8178 with Gannett Fleming, Inc. for On-Call Professional Engineering Services for a three year term, not to exceed $250,000.
(Public Works and Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Rosemarie Gaglione, (805) 385-8055

10. Public Works Department

SUBJECT: Appropriate Funds for C Street Bicycle Facilities Installation (Project No. 133103) and Oxnard Boulevard Bicycle Facilities Installation (Project No. 183101).

RECOMMENDATION: That the City Council approve a budget appropriation in the total amount of $169,494 from the fund balance of the Air Pollution Buydown Fee Fund (118) to the following projects: $62,821 for the C Street Bicycle Facilities Installation Project No. 133103, and $106,673 for the Oxnard Boulevard Bicycle Facilities Installation Project No. 183101. (Public Works &

Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Rosemarie Gaglione, (805) 385-8055

L. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Planning and Zoning Permit No. 19-580-05 (Zoning Text Amendment) – Amendment to the Oxnard City Code to Create Regulations for Cannabis Retail Dispensaries. (15/10/10)

RECOMMENDATION: That the City Council approve the first reading by title only of an Ordinance to regulate retail cannabis within Chapters 11 and 16 of the Oxnard City Code pertaining to permitting and siting of cannabis dispensaries. (Housing and Economic Development Committee approved 3-0)

Legislative Body: City Council

Contact: Jeffrey Lambert, (805) 385-7882

2. Community Development Department

SUBJECT: Planning and Zoning Permit No. 19-580-04 - Zoning Text Amendment to Create Regulations for Short Term Rentals. (5/10/10)

RECOMMENDATION: That the City Council:
1. Conduct a public hearing;
2. Determine the zoning text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations;
3. Introduce by title only and waive further reading of the following Ordinances by title only approving the following amendments to Chapters 7 (Nuisances), 16 (Zoning Code) and 17 (Coastal Zoning) of the Oxnard City Code:

a. Chapter 7: modify Section 7-56 (Civil Fines: Amounts) to establish fine amounts for violations;

b. Chapter 16: add Article XI to Chapter 16 regarding short-term rentals; add Subsection (19) to Section 16-21 (B) to the Residential Single-Family Zone and amend Section 16-148, Table 16-148 of the Downtown Code, add short-term rentals as an allowed, by right residential use in the DT-E, DT-G and DT-C zones subject to Article XI of Chapter 16;

c. Chapter 17: add Section 17-53 to Chapter 17 in Article IV regarding short term rentals and amend Chapter 17 of the Oxnard City Code by adding Subsection (B) (10) to Section 17-10; R-B-1, Single-Family Beach, Sub-Zone; Subsection (B) (10) to Section 17-11. R-W-1, Single-Family Water-Oriented, Sub-Zone; Subsection (B) (10) to Section 17-12. R-W-2, Townhouse Water-Oriented, Sub-Zone; Subsection (B) (10) Section 17-13; R-2-C, Coastal Multiple-Family, Sub-Zone; Subsection (B) (10) to Section 17-14; R-3-C, Coastal Medium Density Multiple-Family, Subsection (B) (3) to Section 17-15; CPC, Coastal Planned Community Sub-Zone; and Subsection (B) (9) to Section 17-25; R-BF, Beachfront Residential, Sub-Zone regarding allowing short-term rental units subject to Section 17.53;

d. Incorporate the following revisions to the ordinances that were proposed at the November 5, 2019 hearing: (1) include a 200' separation between STRs, (2) remove language that prohibits outdoor amplified music during quiet hours and rely on the existing sound regulations in Chapter 7, Article XI, (3) prohibit STRs in the Colony and Harbour Island HOAs, and (4) include exemptions for existing timeshare properties.

Legislative Body: City Council

Contact: Jeffrey Lambert, (805) 385-7882

3. Community Development Department

SUBJECT: Appeal of Planning Commission Action of PZ 18-500-12, Special Use Permit Regarding Property Located at 2900 Saviers Road; Request for Continuance to Date Certain. (5/5/5)

RECOMMENDATION: That the City Council continue until February 4, 2020 the appeal hearing for Planning and Zoning Permit No. 18-500-12 (SUP) for property located at 2900 Saviers Road.

Legislative Body: City Council

Contact: Jeffrey Lambert, (805) 385-7882

M. REPORTS

1. Community Development Department

SUBJECT: Downtown Improvement Program Settlement Funds (DIPSF) - Priority Funding Recommendations. (10/20/10)

RECOMMENDATION: That the City Council:
1. Receive a report of Downtown Improvement Program Settlement Funds to benefit the revitalization of Downtown Oxnard; and
2. Approve a budget appropriation in the amount of $540,000 from the fund balance of the City-Downtown Improvement Fund (481).
(Housing and Economic Development Committee approved 3-0)

Legislative Body: City Council

Contact: Jeffrey Lambert, (805) 385-7882

2. Police Department

SUBJECT: Ordinance revision to ban the sale of flavored tobacco products. (20/15/10)

RECOMMENDATION: That City Council approve the first reading by title only and waive further reading of an ordinance amending Article XIV of Chapter 11 of the Oxnard City Code related to Tobacco Retailer Permits and the sale of flavored tobacco products.

Legislative Body: City Council

Contact: Scott Whitney, (805) 385-7624

3. Public Works Department

SUBJECT: Approve Purchase Order with WEX Bank for Fleet Fuel Cards Program. (5/5/5)

RECOMMENDATION: That the City Council award and authorize the Mayor to establish a Purchase Order with WEX Bank in the not to exceed amount of $7,200,000 for a three year term for Fuel Cards. (Public Works and Transportation Committee approved 3-0; expenditures for FY19 have been updated since PWTC approval.)

Legislative Body: City Council

Contact: Rosemarie Gaglione, (805) 385-8055

N. ADJOURNMENT

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

APPOINTMENT ITEMS (5:30 PM)
AGENDA ITEM NO. D.1.

DATE: December 3, 2019

TO: City Council

FROM: Darwin Base, Fire Chief, (805) 385-7700, darwin.base@oxnard.org

SUBJECT: Southern California Edison, Wildfire Mitigation Planning and the Public Safety Power Shutoff Program. (15/10/10)

RECOMMENDATION

That the City Council receive a presentation from Ms. Rondi Guthrie, Government Relations Manager with Southern California Edison, on their current efforts in Wildfire Mitigation Planning and the Public Safety Power Shutoff Program.

BACKGROUND

In response to recent California wildland fires, Southern California Edison (SCE) has developed plans to shut down electrical power in fire-prone areas during critical fire weather in order to reduce the risk of wildfires. The Public Safety Power Shutoff (PSPS) Program has led to multi-day power outages in many fire-prone areas during periods of extremely hot, dry and/or windy weather.

When forecasts predict elevated fire weather conditions, SCE will begin assessing the potential impact to affected areas. They will analyze historical data to help predict the likelihood of a wildfire occurring, closely monitor weather watch alerts from the National Weather Service (NWS), and if needed, place incident responders on alert. If conditions indicate, shutdowns will be implemented along specific electrical circuit lines in the high risk areas. Once circuits are identified for potential PSPS, Edison customers, local officials and emergency services agencies are too notified in advance of the shutdown.

Once initiated a PSPS outage will last as long as the potentially dangerous weather conditions exist, plus the amount of time it takes for SCE workers to inspect and repair their equipment in the affected areas. According to SCE outages could be as short as a few hours or last as long as 5 to 7 days. SCE has already instituted numerous PSPS shutoffs this summer and during the recent high wind and red flag events.

At this time SCE has identified one PSPS circuit within the City of Oxnard. This circuit, known as the “Carnegie Circuit,” provides power to approximately 7.14 square miles (4,566.87 acres) of the City including areas of the Victoria Estates, Cypress Point, Windsor North, Cabrillo, Sierra Linda, Fremont North, Carriage Square, Orchard Park and Rio Lindo neighborhoods. To date this circuit has not been de-energized as a part of the PSPS Program.

To prevent wildfires and the need for potential PSPS, Edison is taking a number of steps to improve and harden their infrastructure. Ms. Guthrie's presentation will provide an overview of the PSPS Program and measures and strategies SCE is using to prevent wildfires.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

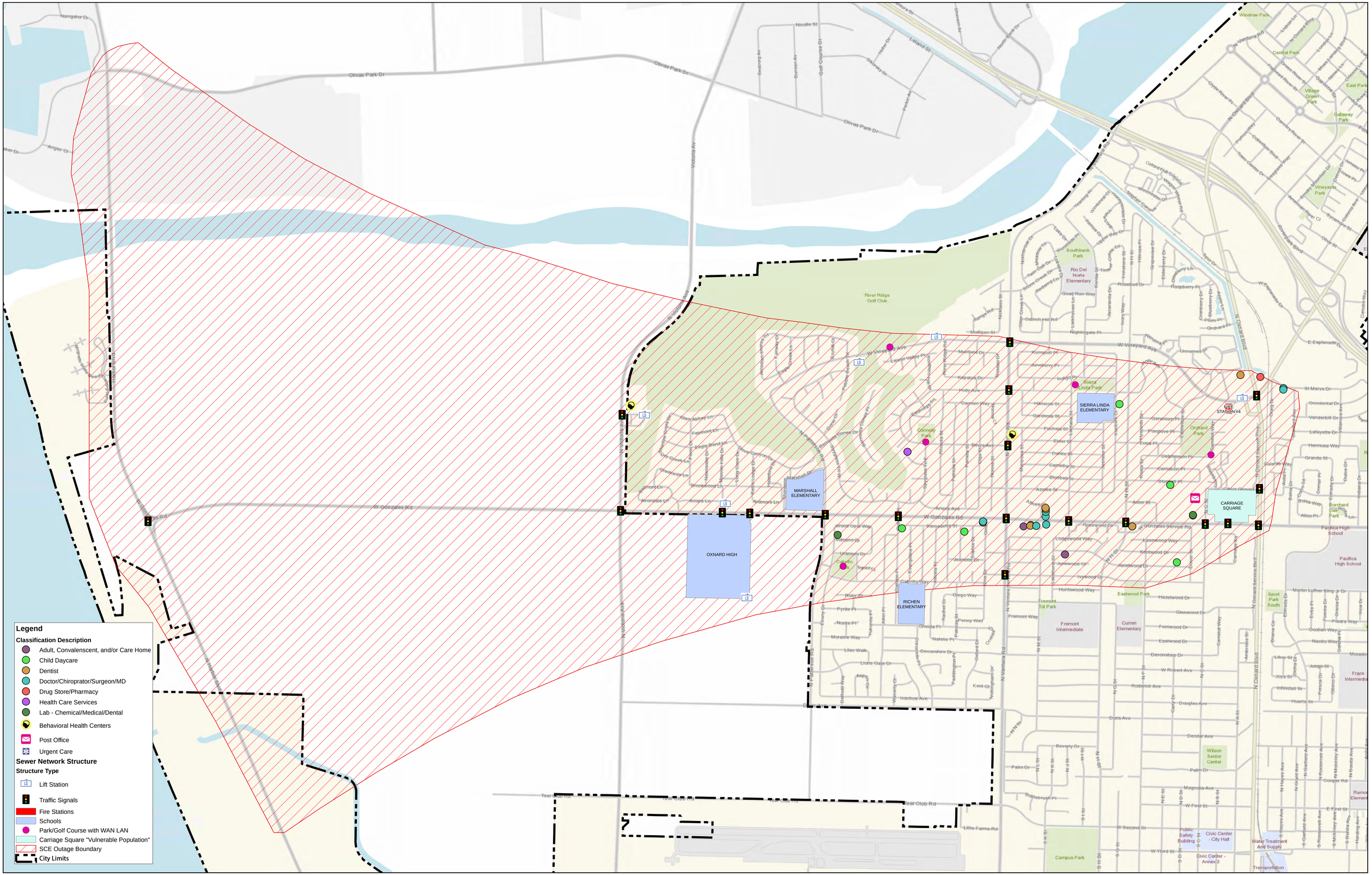
Prepared by: Scott Brewer, Emergency Services Manager

ATTACHMENTS

1. Map of SCE Outage Area in Oxnard
2. Oxnard Wildfire Community Meeting Presentation

CRITICAL INFRASTRUCTURE WITHIN SCE OUTAGE AREA

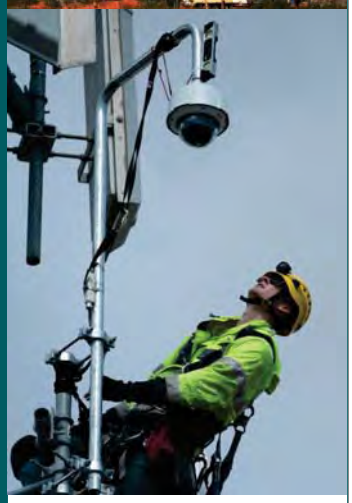
ITEM #D-1



Wildfire Mitigation Plan

Oxnard City Council

December 3, 2019



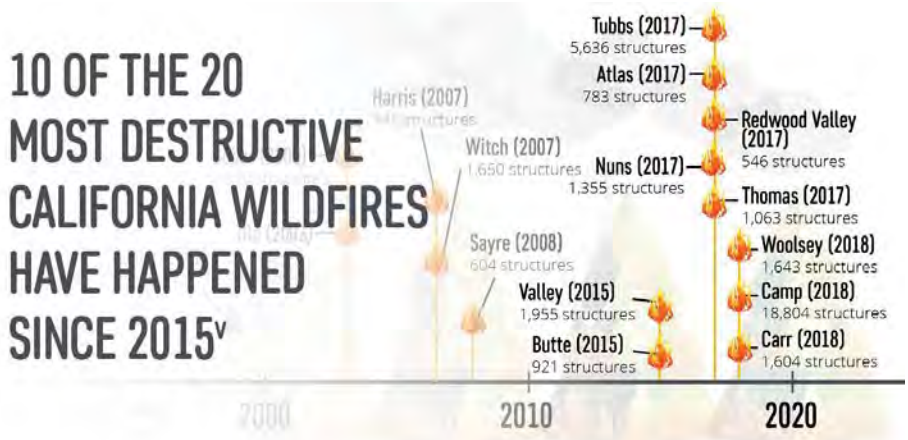
Energy for What's Ahead®

SOUTHERN CALIFORNIA EDISON®

California's Wildfire Risk

Year-Round Fire Season: Changes to California's climate means that the traditional notion of a fire "season" no longer exists

Hazardous fuel is building up: 10M acres of land contain ready-to-burn kindling from nearly 147M trees that have been killed or weakened by drought and bark beetle infestation



Source: http://www.fire.ca.gov/communications/downloads/fact_sheets/Top20_Destruction.pdf

Objective of SCE's Wildfire Mitigation Plan

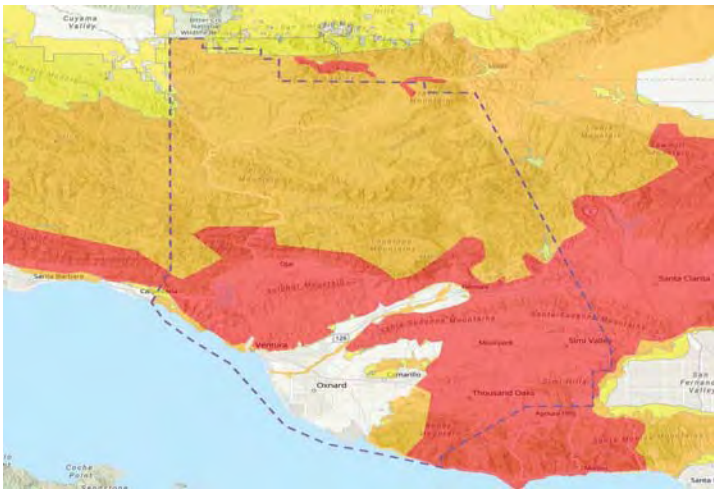
1. Protect public safety
2. Implement the plan to reduce the risk of potential wildfire-causing ignitions associated with SCE's electrical infrastructure
3. Implement measures that further harden SCE's electric system against wildfires and improve system resiliency
4. Enhance wildfire suppression efforts by improving fire agencies' ability to detect and respond to emerging fires in coordination with utility emergency management personnel
5. Effectively communicate with customers, community groups, and other stakeholders about how to prevent, prepare for, and mitigate the effects of wildfires

Local Community High Fire Risk Area Map

Approximately 1/3 of SCE's 50,000 square mile service area is located in HFRA.

What makes up SCE's HFRA?

A combination of historical map boundaries (based on past fire management and response experiences), CAL FIRE's Fire Hazard Severity Zone (FHSZ) maps, and most recently the CPUC High Fire Threat District map are used to inform SCE's High Fire Risk Areas.



CPUC Tier 3 = ~18%
CPUC Tier 2 = ~9%
Other HFRA = ~8%

* Areas within SCE's service area that continue to be designated as HFRA and are in the process of being evaluated to determine whether they remain as HFRA

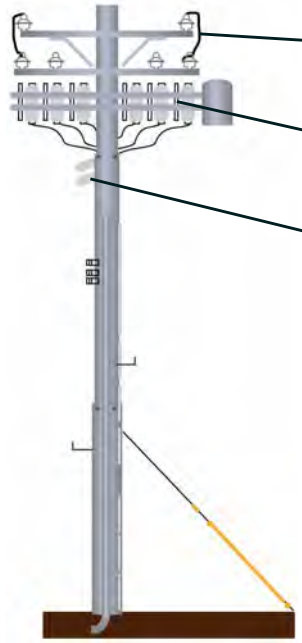
Scope of SCE's 2019 SB 901 Wildfire Mitigation Plan

OPERATIONAL	**Inspections**	• Enhanced overhead inspections (EOI) on transmission and distribution structures in HFRA • Various existing inspections (poles, switches, circuits, relays, etc.) • Infrared, Corona scanning and high definition (HD) imagery
OPERATIONAL	**Public Safety Power Shutoff (PSPS)**	• Effective communications and engagement with emergency services, customers and communities
OPERATIONAL	**Situational Awareness**	• Weather stations and HD cameras
OPERATIONAL	**Vegetation Management**	• Hazard tree removal (trees beyond traditional trim zone) • Vegetation removal at poles • LiDAR surveying for transmission, supplemental inspections in HFRA • SCE plans to implement a 12-ft tree clearances from distribution power lines in high fire areas to ensure annual growth will not encroach on compliance distances.
INFRASTRUCTURE	**Covered Conductor**	• Circuit miles of covered conductor in HFRA
INFRASTRUCTURE	**Undergrounding**	• Evaluation of certain distribution lines in HFRA for potential undergrounding.
INFRASTRUCTURE	**Other Infrastructure Mitigations**	• Various system hardening activities (e.g., composite poles, current limiting fuses (CLFs), remote automatic reclosers (RARs), Fast Curve settings) • Studies, evaluations and pilots of alternative technologies

[1]Per SCE's Grid Safety & Resiliency Program (GSRP)

Infrastructure - System Hardening Elements

Hardened System



Covered Conductor

Fast-Acting, Current Limiting Fuses (CLF)

Reclosers

Enhanced Overhead Inspections (EOI)

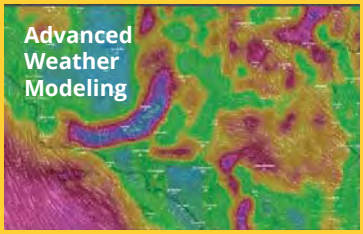
Enhanced Overhead Inspections Identify Potential Risks

- In less than 5 months, our crews completed detailed ground-based inspections of **400,000+** distribution and transmission structures in HFRA
- Deploying helicopters and drones equipped with Infrared, Ultraviolet, LiDAR and HD image scanning to perform aerial inspections of our facilities in HFRA

SCE's helicopters are equipped with software and high-tech cameras, like the one shown above, to find potential risk undetectable to the human eye

Situational Awareness Capabilities

- Hi-Res Data
- Local Weather



- Better Forecasting
- Advanced Warning

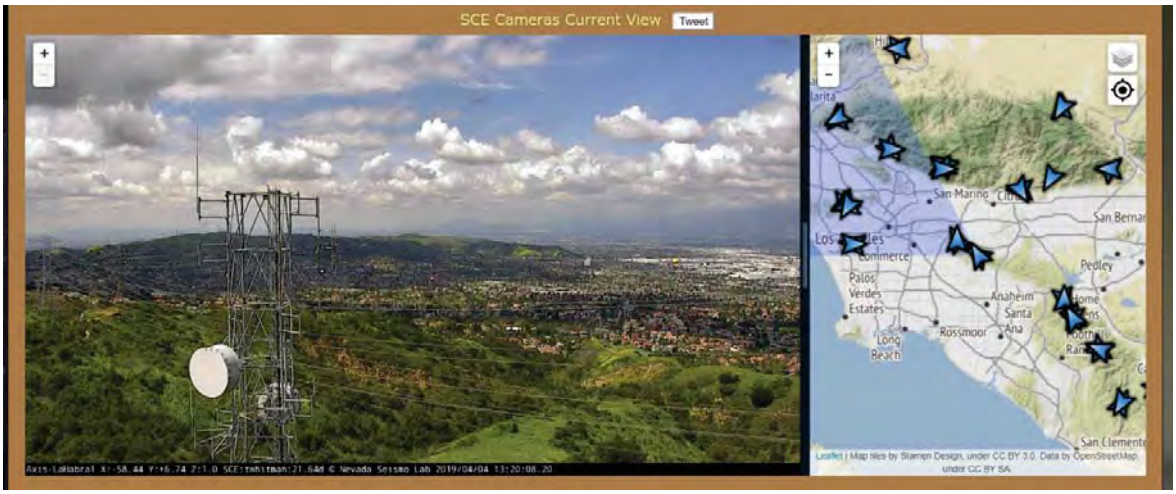
- High-Definition
- Remote-controlled

Situational Awareness Center

- SCE meteorologists
- 24/7 monitoring

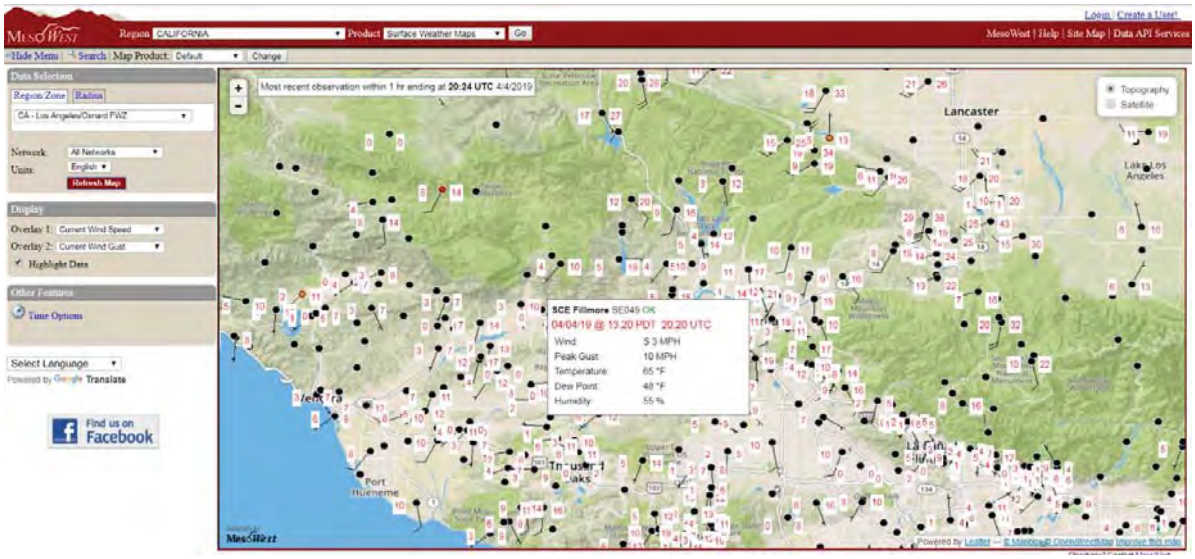
Wildfire HD Camera

Wildfire HD Camera



www.alertwildfire.org

Weather Stations



mesowest.utah.edu

Vegetation Management

- **20+** in-house certified arborists
- **800+** pruning contractors with **60** more crews added June/July 2018
- ≈ **900,000** trees inspected annually
- ≈ **700,000** pruned per year; **400,000** trees in high fire risk areas

2019

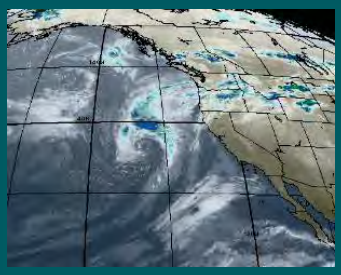
- Continue to remove dead, dying, diseased trees in HFRA
- Remove additional **7,500** which pose a fall-in or blow-in risk to SCE electrical facilities in HFRA
- SCE has implemented a 12-ft tree clearance from distribution power lines in high fire areas to ensure annual growth will not encroach on compliance distances.

Public Safety Power Shutoff (PSPS)

- De-energization to **prevent ignitions** from powerlines
- Used during **extreme fire conditions**
- Primarily impacts circuits in high fire risk areas
  - Other circuits in non-high fire risk areas may be impacted if transmission lines are de-energized
- Red Flag Warning **does not** mean a PSPS will be called
- Actual frequency of PSPS events will depend on various weather and environmental factors
  - Decision will be made with most accurate assessment of real-time information and situational awareness data

PSPS Decision Points

Decision points include but are not limited to:



- SCE Meteorologists forecast **strong wind** conditions in service territory
- SCE Fire Scientist assessment **of fire potential** to include consideration of **weather** and **fuels**

- Real-time observations from qualified personnel monitoring for **hazardous conditions** in the field

- Impact of de-energizing circuits on **first responders and essential services**

* Erratic or sudden onset of conditions may prevent the input from real-time observations or consultation with first responders

PSPS Ideal Timeline

4-7 DAYS AHEAD	3 DAYS AHEAD	2 DAYS AHEAD	1 DAY AHEAD	POWER SHUTOFF	POWER RESTORATION
Forecast Weather & Fire Conditions	SCE Incident Management Team activated County Operational Areas informed of potential activation	1st Notification PSPS Possible sent to agencies and customers	2nd Notification PSPS Possible	3rd Notification Power Shutoff	4th Notification Power Restored After Inspection

PLANNING AND MONITORING | OUTAGE

*Erratic or sudden onset of conditions may impact our ability to provide advanced notice to customers.

Useful Information

- Update Customer Contact Information https://www.sce.com/outagealerts
- Information on SCE Wildfire Mitigation Plan www.sce.com/wildfire
- Twitter - @sce
- Facebook – www.facebook.com/sce
- Fire Cameras- www.alertwildfire.org
- Weather Stations – mesowest.utah.edu
- CPUC Wildfire Maps Information - www.cpuc.ca.gov/wildfiresinfo/
- Fire Preparedness - calfire.ca.gov/fire_protection/fire_protection_be_prepared
- Red Cross Emergency Preparedness www.redcross.org/get-help/how-to-prepare-for-emergencies.html
- FEMA Emergency Preparedness – Ready.gov Prepare. Plan. Stay Informed.

Thank you

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.1.

DATE: December 3, 2019

TO: City Council

FROM: Michelle Ascencion, City Clerk, (805) 385-7805, michelle.ascencion@oxnard.org

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of the November 5, 2019 regular meeting, November 7, 2019 special meeting, and November 19, 2019 regular meeting as presented.

BACKGROUND

Not applicable.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016. This agenda items does provide transparency of Council meetings to the public.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Michelle Ascencion, City Clerk

ATTACHMENTS

1. Minutes 11.05.2019 CC,HA,SA,FA regular meeting
2. Minutes 11.07.2019 CC special meeting
3. Minutes 11.19.2019 CC regular meeting

M I N U T E S
OXNARD CITY COUNCIL
Regular Meeting
November 5, 2019

A. ROLL CALL, POSTING OF AGENDA

At 4:34 p.m., Mayor Flynn called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority, Oxnard Community Development Successor Agency, and Oxnard Financing Authority) in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Vianey Lopez, Bryan A. MacDonald, Bert E. Perello, Mayor Pro Tem Carmen Ramirez, and Mayor Tim Flynn were present; Councilmembers Gabriela Basua and Oscar Madrigal arrived at 4:36 p.m. and 5:24 p.m. respectively. Housing Commissioner Jose Andrade arrived at 5:55 p.m.; Commissioner Francisco Vega was absent.

Staff members present were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Tara Mazzanti, Assistant City Attorney; Jennie Kelly, Assistant City Attorney; Steve Naveau, Human Resources Director; Thien Ng, Assistant Public Works Director; and Michelle Ascencion, City Clerk.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Public comments were received from Blair Brim, Mark Moise, Cliff Reilly, Laura Ledesma, and Nellie Estrada.

C. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code section 54956.9 (d)(1)) (City Council)
   Name of Case: April Kittel v. City of Oxnard; et al.
   United States District Court Case No. CV-17-6709-MWF (GJSx).

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code section 54956.9 (d)(1)) (City Council)
   Name of Case: County of Alameda; et al. v. Richard S. Sackler; et al.
   Orange County Superior Court Case No. 30-2019-01101802-CU-BT-CXC.

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

4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(4)) (City Council)
   Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

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5. CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6) (City Council)
Agency designated representatives: Alex Nguyen, City Manager, Steve Naveau, Director of Human Resources; and Jennie Kelly, Assistant City Attorney. Employee organization: Service Employees International Union CTW, CLC, Local 721 (SEIU Local 721); International Union of Operating Engineers AFL-CIO, Local No. 501 (IUOE Local 501); and unrepresented employees: Assistant City Manager, Chief Financial Officer, City Clerk, City Treasurer, Deputy City Manager, Community Development Director, Fire Chief, Housing Director, Human Resources Director, I.T. Director, Cultural and Community Services Director, Police Chief, Public Works Director (Department Directors); Chief Assistant City Attorney, Assistant City Attorney, Deputy City Attorney; Accountant II (C80), Accounting Technician (C67), Administrative Assistant (C70), Administrative Legal Assistant (C70), Administrative Legal Secretary I (C25), Administrative Legal Secretary II (C35), Administrative Legal Secretary III (C50), Administrative Secretary I (C15), Administrative Secretary II (C30), Administrative Secretary III (C40), Administrative Services Assistant (C70), Administrative Technician (C60), Employee Relations Coordinator (C67), Executive Assistant I (C80), Executive Assistant II (C85), Human Resources Technician (C70), Office Assistant I (C10), Office Assistant II (C20), Paralegal (C75), Senior Administrative Secretary (C55), Senior Human Resources Coordinator (C75), (Confidential Employees).

Mayor Flynn read the following closed session statement:

"The City Council will recess to a closed session, pursuant to Government Code section 54956.9(d)(1), to confer with its attorneys. The titles of the litigation being discussed are: 1. April Kittel v. City of Oxnard; and 2. County of Alameda; et al. v. Richard S. Sackler; et al.

"The City Council will also recess to a closed session pursuant to 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 regarding the payment of public safety employee overtime under the Fair Labor Standards Act.

"The City Council will also recess to a closed session pursuant to Government Code section 54956.9(d)(4), based on existing facts and circumstances, to decide whether to initiate litigation in one potential case.

"The City Council will also recess to a closed session, pursuant to Government Code section 54957.6, to review the status of labor negotiations and to review its available funds and funding priorities for the purpose of providing instructions to the City's negotiators regarding the organizations specified in Item C.5 of the meeting agenda."

At 4:48 p.m., the City Council recessed to a closed session. At 5:46 p.m. the City Council reconvened in open session in the Council Chambers. The City Attorney made the following announcement: "On the matter of Kittel v. Oxnard, Council was briefed on the case status and authorized settlement terms. If those terms are accepted by the plaintiff, the case will be settled and a settlement agreement will be available for inspection once it is final. In the case of County of Alameda et al v. Sackler et al., which is the opioids litigation, Council was briefed on the case status and provided direction to legal counsel. On the initiation of litigation matter, the Council by

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a vote of 6-0 (with Councilmember Madrigal not present for the vote) directed the City Attorney to initiate an action to challenge the recently adopted Fox Canyon Groundwater Management Agency's groundwater allocation ordinance. The defendants, and the other particulars shall, once unsealed, be disclosed to any person upon inquiry, unless to do so would jeopardize the City's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. On the labor negotiations matter, Council was briefed on the status of labor negotiations with the listed bargaining units and unrepresented employees and provided direction to the city's negotiators. Once agreements are finalized, those will be agendized for Council action at open session."

D. APPOINTMENT ITEM

City Manager Department

1. SUBJECT: Presentation by Oxnard School Superintendent Karling Aguilera-Fort.
   RECOMMENDATION: Informational presentation only.

Superintendent Aguilera-Fort made some remarks and was welcomed by the Council.

City Manager Department

2. SUBJECT: Ventura County Civic Alliance State of the Region Report.
   RECOMMENDATION: That the City Council receive the State of the Region Report from the Ventura County Civic Alliance.

David Maron of the Civic Alliance gave a report. Discussion ensued among the Council and Mr. Maron.

E. OPENING CEREMONIES

The flag salute was followed by a moment of silence.

Additional staff members present at this time were Tatiana Arnaout, City Engineer; Emilio Ramirez, Housing Director; Jeffrey Lambert, Community Development Director; Kenneth Rozell, Chief Assistant City Attorney; and Steve Newman, Deputy Building Official.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Mary Rose (homeless advocate), Harold Ceja (dangers of marijuana use, street conditions in La Colonia), P.W. Robinson (homelessness), Jackie Tedeschi (thanked first responders; recent Municipal Budgeting 101 and RHNA process special meeting; recent Southbank neighborhood council meeting; upcoming Ready & Resilient presentation), Wendy Leung (upcoming Ventura Storytellers Project event at the Oxnard PACC), Kathy Guerrero (gun violence prevention), Steve Guerrero (traffic safety on Harbor Boulevard), Pat Brown (homeless shelter), Gabriel Teran (Ventura Storytellers Project), Luis Garcia (excessive speed of trains running through the city), Wendy Lee (Fisherman's Wharf), and Sandra McLaughlin (Fisherman's Wharf).

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G. REPORT OF CITY MANAGER

The City Manager announced the upcoming "Disruption of Autonomous Cars, Traffic, and Parking" mobility lecture at Oxnard College, and the Assistant City Manager announced the National PAL "last chance" USA Olympic Boxing qualifier tournaments taking place at the Oxnard PAL Gymnasium.

H. CITY COUNCIL REPORTS

Councilmember Lopez reported on attending the USA Boxing tournament opening ceremony and participating in a recent panel discussion on housing.

Councilmember Perello reported on attending the USA Boxing tournament opening ceremony, commented on horse deaths at professional racetracks, oil and gas drilling near the Fox Canyon aquifer, safety around train tracks, and the upcoming mobility lecture.

Mayor Pro Tem Ramirez reported on attending the recent League of California Cities annual conference and the status of the Regional Housing Needs Assessment process. She commented on the Natural Solutions for Climate Change symposium and an Ocean Protection Council planning grant. She requested a future agenda item on pedestrian and bicycle safety. She commented on the County Board of Supervisors' continued moratorium on oil and gas drilling.

Councilmember Madrigal wished Jackie Tedeschi and Councilmember Perello a happy birthday. He reported on the recent CERT graduation, the USA Boxing tournament, a senior prom in Port Hueneme, Halloween and Dia de los Muertos celebrations at Las Cortes, a Rio Lindo neighborhood cleanup, First Generation College Student Day, and the Borderline shooting anniversary.

Mayor Flynn announced the upcoming Veterans Day parade and commemoration ceremony and reported on the recent League of California Cities annual conference. He commented on the ordinance against camping in public areas that recently took effect and gave additional updates on the homelessness issue.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-3, K-4, K-8, and K-9 were discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Tony Talamante, Pat Brown, and Joel Kirschenstein.

K. INFORMATION/CONSENT AGENDA

City Attorney Department

1. SUBJECT: First Amendment to Agreement for Special Counsel on Water and Wastewater Issues.
   RECOMMENDATION That City Council approve and authorize the Mayor to execute a First Amendment to the Attorney Services Agreement with Meyers, Nave, Riback, Silver &

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Wilson ("Meyers Nave") (Agreement No. 8603-19-CA, Purchase Order 7340) for services relating to water and wastewater issues for an increase of $300,000 for a total contract amount not to exceed $500,000.

City Clerk Department

2. SUBJECT: Approval of Minutes.
RECOMMENDATION: That the City Council approve the minutes of the October 1, 2019 and October 15, 2019 regular meetings as presented.

City Manager Department

3. SUBJECT: 2020 Meeting Schedule for Legislative Bodies.
RECOMMENDATION: That City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority approve the proposed meeting dates for the calendar year 2020.

Community Development Department

4. SUBJECT: Planning and Zoning Permit No. 18-680-01 (Mills Act Agreement-Henry T. Oxnard-Landmark No. 161), Daniel Barcela House at 320 South F Street. Filed by Jake Donaldson and Nicole Janelle, Property Owners.
RECOMMENDATION: That the City Council authorize the Mayor to execute a Mills Act Contract (Agreement No. A-8185) with Jake D. Donaldson and Nicole S. Janelle (Property Owners) to maintain and preserve a historic property located at 320 S F Street (Oxnard-Landmark No. 161).

5. SUBJECT: California Department of Housing and Community Development Senate Bill (SB) 2 Planning Grant Application.
RECOMMENDATION: That the City Council:
1. Adopt **Resolution No. 15,273** authorizing the City Manager to submit an application for $625,000 in SB2 grant program funds to be used for 2021-2029 Housing Element Sites Inventory, Downtown Infrastructure Study, and Comprehensive Zoning Ordinance Update and Development of Web Based Zoning Code; and
2. Approve a budget appropriation, to be executed upon award, in the amount of $625,000 to be funded with SB2 State Grant Funds.

Police Department

6. SUBJECT: Service Authority for Freeway Emergencies (SAFE) Grant Program.
RECOMMENDATION: That the City Council adopt **Resolution No. 15,274**:
1. Authorizing the City Manager to execute $50,000 in grant funds from the Service Authority for Freeway Emergencies (SAFE) Grant Program, to be used for the purchase of two variable message trailers;
2. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon confirmation of grant award;
3. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve special budget appropriations for use of SAFE grant funds; and

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4. Authorizing the Chief of Police or designee to submit all program related progress or status reports.
(Public Safety Committee approved 3-0)

7. SUBJECT: Department of Alcoholic Beverage Control / Office of Traffic Safety (ABC/OTS) Grant.
RECOMMENDATION: That the City Council adopt **Resolution No. 15,275**:
1. Authorizing the City Manager to execute and apply for $20,000 in grant funds from the Department of Alcoholic Beverage Control/Office of Traffic Safety (ABC/OTS) Grant Program, to be used for overtime to conduct four (4) Minor Decoy Operations, four (4) Shoulder Tap Operations, and two (2) IMPACT Inspections.
2. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon confirmation of grant award.
3. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve special budget appropriations for use of ABC/OTS grant funds.
4. Authorizing the Chief of Police or designee to submit all program related progress or status reports.
(Public Safety Committee approved 3-0)

Public Works Department

8. SUBJECT: Award Contract to Taft Electric for Flashing Pedestrian Beacon Project.
RECOMMENDATION: That City Council:
1. Award and authorize the Mayor to execute Agreement No. A-8186 in the amount of $540,581.56 with Taft Electric Company for the Flashing Pedestrian Beacon Project;
2. Approve $54,058.16 for project contingency for the Flashing Pedestrian Beacon Project;
3. Approve $54,058.16 for engineering, inspection, survey and project management for the Flashing Pedestrian Beacon Project; and
4. Approve a Budget Appropriation in the total amount of $297,864 for the Flashing Pedestrian Beacon Project. This amount includes $181,188 from the Air Pollution Buy Down fund (118) and, an increase in Congestion Mitigation Air Quality (CMAQ) grant revenue fund (275) in the amount of, $116,676 for project 163105.

9. SUBJECT: Award of a Three-Year Contract for Landscape and Ballfield Maintenance in RiverPark Community Facilities District 5.
RECOMMENDATION: That the City Council approve and authorize the Mayor to:
1. Execute Agreement A-8171 with Garcia's Landscaping Maintenance, Inc. to provide landscape and ballfield maintenance services to RiverPark Community Facilities District 5 in the total amount of $3,120,435 for a three year term;
2. Approve a contingency in the amount of $150,000 for Agreement A-8171 for landscape and irrigation rehabilitation services with Garcia's Landscaping Maintenance, Inc., identified at the time of transfer of services from the previous contractor; and
3. Authorize the Public Works Director or designee to change service levels within the Agreement based on the available funding in the facilities district.

10. SUBJECT: Approval of Second Amendment to Trade Services Agreement 8446-18-PW with U.S. Peroxide, LLC.
RECOMMENDATION: That the City Council approve and authorize the Mayor to

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execute a Second Amendment to Agreement 8446-18-PW with USP Technologies, Inc. to increase the amount by $754,950 for a new total Agreement value of $947,232 through June 30, 2022, to control sulfide at the headworks and clarifiers of the Oxnard Wastewater Treatment Plant. (The Public Works and Transportation Committee approved 3-0)

It was moved by Mayor Pro Tem Ramirez, seconded by Councilmember Perello, to approve the Information/Consent items as presented. VOTE: Andrade, Basua, Flynn, Lopez, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 8-0 on item K-3 (Council/ Housing/Financing/Successor Agency item), and 7-0 on the remaining items (City Council items).

L. PUBLIC HEARINGS

Housing Department

1. SUBJECT: Public Hearing for Issuance of Exempt Facility Bonds for a Qualified Residential Rental Project for The Holiday Manor Apartments.
RECOMMENDATION: That the City Council:
1. Hold a public hearing regarding the issuance by the California Statewide Communities Development Authority of up to $68,000,000 of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986 to finance or refinance the acquisition, rehabilitation and development of a 252-unit multi-family rental housing project located at 1924 and 1928 Camino Del Sol, 1805 and 1915 San Gorgonio, and 100 and 320 North Rose Avenue, Oxnard, California (known as The Holiday Manor Apartments); and
2. Adopt **Resolution No. 15,276** approving the issuance of bonds.

The City Clerk announced the affidavit of publication and stated that no written communications had been received. Councilmember Madrigal announced that he has a real property conflict of interest and left the dais.

The Housing Director gave a report. Mayor Flynn opened the public testimony portion of the public hearing. No public comments were received.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council, staff, and Robert Lee, who spoke on behalf of the property owner.

It was moved by Councilman MacDonald, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: Basua, Flynn, Lopez, MacDonald, Perello, and Ramirez voted in favor; the motion carried 6-0 (Madrigal recused).

Councilmember Madrigal returned to the dais following the vote.

Community Development Department

2. SUBJECT: Planning and Zoning Permit No. 19-580-04 - Zoning Text Amendment to Create Regulations for Short Term Rentals, to include recommendations of the City Council Housing and Economic Development Committee (HEDC).

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RECOMMENDATION: That the City Council:
1. Receive a report regarding the regulations for Short Term Rentals;
2. Open a public hearing;
3. Determine the zoning text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations;
4. Introduce by title only and waive further reading of the following Ordinances by title only approving the following amendments to Chapters 7 (Nuisances), 16 (Zoning Code) and 17 (Coastal Zoning) of the Oxnard City Code:

a. Chapter 7: modify Section 7-56 (Civil Fines: Amounts) to establish fine amounts for violations;

b. Chapter 16: add Article XI to Chapter 16 regarding short-term rentals; add Subsection (19) to Section 16-21 (B) to the Residential Single-Family Zone and amend Section 16-148, Table 16-148 of the Downtown Code, add short-term rentals as an allowed, by right residential use in the DT-E, DT-G and DT-C zones subject to Article XI of Chapter 16;

c. Chapter 17: add Section 17-53 to Chapter 17 in Article IV regarding short term rentals and amend Chapter 17 of the Oxnard City Code by adding Subsection (B) (10) to Section 17-10; R-B-1, Single-Family Beach, Sub-Zone; Subsection (B) (10) to Section 17-11. R-W-1, Single-Family Water-Oriented, Sub-Zone; Subsection (B) (10) to Section 17-12. R-W-2, Townhouse Water-Oriented, Sub-Zone; Subsection (B) (10) Section 17-13; R-2-C, Coastal Multiple-Family, Sub-Zone; Subsection (B) (10) to Section 17-14; R-3-C, Coastal Medium Density Multiple-Family, Subsection (B) (3) to Section 17-15; CPC, Coastal Planned Community Sub-Zone; and Subsection (B) (9) to Section 17-25; R-BF, Beachfront Residential, Sub-Zone regarding allowing short-term rental units subject to Section 17.53;

d. Incorporate the following revisions to the proposed ordinances: (1) include a 100' separation between STRs, (2) add a 5% cap to the R-BF zone, (3) limit annual rental days to 100, (4) require property manager/owner to be within 25 miles of the STR, (5) prohibit outdoor amplified music during quiet hours, (6) include parking limitations on STR advertisements, and (7) increase fines as noted; and

5. Set the Ordinances for a second reading and adoption at the City Council meeting of November 19, 2019.

The City Clerk announced the affidavit of publication and stated that a high number of written communications had been received. The City Attorney advised the Council to disclose their meetings and discussions with members of the public or other agencies, and the Councilmembers each made announcements.

The Community Development Director gave a report. Mayor Flynn opened the public testimony portion of the public hearing. Public comments were received from Victoria Chandler, Ralph Hirschman, Deirdre Frank, Charles Boyd, Angela Slaff, Kathy Guerrero, Steve Guerrero, Pat Brown, Walter Hagedohm, Diane Delaney, Dori Holland, Bob Murphy, Robert Dushane, Nancy Lindholm, Sharon Cerrell, Tony Rondinella, Gail Sherman, Rita Weiss, Perry Ferguson, Eliangela Schlotfelt, and Julie Pena.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

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The Council took a brief recess at 9:55 p.m. to allow the staff to confer. The meeting resumed at 10:02 p.m. Further discussion ensued.

It was moved by Councilmember Perello, seconded by Councilmember Lopez, to approve the recommended action, amending the minimum separation between rentals from 100 feet to 200 feet, eliminating the prohibition on outdoor amplified music, and reviewing the possibility of not allowing short-term rentals in the Harbour Island neighborhood and making timeshares exempt from the 200-foot separation requirements. VOTE: Basua, Flynn, Lopez, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 7-0.

(As it was after 10:00 p.m., the City Council voted unanimously for the remaining agenda items to be heard.)

3. SUBJECT: California Building Standards Regulations.
   RECOMMENDATION: That City Council approve the first reading by title only and subsequent adoption of an ordinance repealing and reenacting Articles II through XI, XV, and XVI of Chapter 14 of the Oxnard City Code, pertaining to the California Building Code, California Residential Code, California Green Building Standards Code, International Property Maintenance Code, Uniform Code for the Abatement of Dangerous Buildings, California Historical Building Code, California Electrical Code, California Existing Buildings Code, California Mechanical Code, California Referenced Standards Code, California Plumbing Code, Fire Codes, and Fire Sprinklers.

The City Clerk announced the affidavit of publication and stated that no written communications had been received.

The Community Development Director gave a report. Mayor Flynn opened the public testimony portion of the public hearing. No public comments were received.

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 Councilman MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, Flynn, Lopez, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 7-0.

M. REPORTS

City Manager Department

1. SUBJECT: Exception to CalPERS 180 day Wait Period for Appointment of a Retired Annuitant to Perform Limited Term Specialized Project Work.
   RECOMMENDATION: That City Council adopt **Resolution No. 15,277** approving an exception to the CalPERS 180 day wait period for Paul Wendt.

It was moved by Councilmember Perello, seconded by Mayor Pro Tem Ramirez, to approve the recommended action as presented. VOTE: Basua, Flynn, Lopez, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 7-0.

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City Attorney Department

2. SUBJECT: Ballot Arguments for the Oxnard Government Accountability and Ethics Act.
RECOMMENDATION: 1. That the City Council determine that City Council will file the written argument in support of the Oxnard Government Accountability and Ethics Act (measure designation to be determined) with five Councilmembers signing on behalf of the City; and
2. That the City Council determine that the Councilmembers that do not sign the argument in favor of the measure are authorized to sign the rebuttal argument along with representatives of organizations or members of the public designated by the Mayor.

The City Attorney gave a report. Discussion ensued among the Council and staff. The Council approved the recommended action 7-0, and designated the members who will sign the argument (Basua, Flynn, Lopez, Madrigal, Ramirez) and the rebuttal (Madrigal, Perello).

N. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Flynn adjourned the meeting at 10:20 p.m.

MICHELLE ASCENCION, CMC City Clerk	TIM FLYNN Mayor

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M I N U T E S
OXNARD CITY COUNCIL
Regular Meeting
November 7, 2019

A. ROLL CALL, POSTING OF AGENDA

At 6:11 p.m., Mayor Flynn called to order the special meeting of the Oxnard City Council in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Bryan A. MacDonald, Oscar Madrigal, Bert E. Perello, Mayor Pro Tem Carmen Ramirez, and Mayor Tim Flynn were present. Councilmember Oscar Madrigal arrived at 6:40 p.m.

Staff members present were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Ashley Golden, Assistant City Manager; Kenneth Rozell, Chief Assistant City Attorney; Jeffrey Lambert, Community Development Director; Isidro Figueroa, Principal Planner; and Michelle Ascencion, City Clerk.

B. OPENING CEREMONIES

The flag salute was followed by a moment of silence.

C. PUBLIC HEARINGS

Community Development Department

1. SUBJECT: Planning and Zoning Permit No. 18-410-01 (Coastal Plan Amendment) for Fisherman's Wharf. Property located at the southwest corner of Channel Islands Boulevard and Victoria Avenue (APNs: 206-0-280-35 and 206-0-280-49). Filed by Designated Agent Tom Tellefsen, Channel Islands Harbor Properties LLC, 270 N. Canon Drive Penthouse, Beverly Hills, CA 90210, on behalf of the County of Ventura, the property owner (the "Applicant").
   RECOMMENDATION: That the City Council:
   1. Receive a report regarding the Coastal Plan Amendment for Fisherman's Wharf;
   2. Open a public hearing;
   3. Determine the Coastal Plan Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(4) (Project Rejected or Disapproved by a Public Agency) of Title 14 of the California Code of Regulations and Public Resource Code Section Section 21080.5 (local government exempt from the requirement of preparing an environmental analysis in connection with its Local Coastal Program); and
   4. Adopt **Resolution No. 15,278** denying Planning and Zoning Permit No. 18-410-01 (Coastal Plan Amendment), subject to certain findings (Attachment A).

The City Clerk announced the affidavit of publication and stated that hundreds of written communications had been received. The City Clerk announced the affidavit of publication and stated that a high number of written communications had been received. The City Attorney advised the Council to disclose their meetings and discussions with members of the public or other agencies, and the Councilmembers each made announcements.

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The Principal Planner gave a report. Mark Sandoval of the County of Ventura Channel Islands Harbor gave a presentation as the applicant. Tom Tellefson of Channel Islands Harbor Properties also gave a report. Mex Ghenis of Ventura County YIMBY gave a report in support of the project. Rene Aiu and Leticia Jaramillo of the Harbor Beach Community Alliance gave a report in opposition to the project.

The Council took a brief recess at 7:28 p.m., the meeting resumed at 7:40 p.m.

Mayor Flynn opened the public testimony portion of the public hearing. Public comments were received from Frank Laza, Steve Kinney, Sara Wan, Randy Short, Dave Vogt, Sandra McLaughlin, Bill Higgins, Mike Schultz, Lauraine Effress, Armando Delgado, Nancy Lindholm, Stacy Pizzuti, Steve Buenger, Asia Beninghoff, Alex Mireles, Bill Ceja, Jose Gacia, Andy Castillo, Tom Cady, Sumie Mishima, Robert Slavin, Miguel Fernandez, Julie Pena, Steve Nash, Wendy Lee, Cheryl Conway, Lori Bates, Mark Temkin, Roxann Mills-Hall, Connor Finney, Mindy Greenberg, Randy Sandford, Connie Korenstein, Audrey Keller, Patricia Younis, Terri Canaan, Rick Clemens, Matthew Lansford, Steve Heery, Ivan Bottlik, Dennis Lammers, George Miller, David Rupp, Angela Whitecomb, Ed Hill, April Nickerson, Debbie Mitchell, Jackson Piper, Diane Delaney, Mike Marsalisi, and Pat Brown.

Without objection, the Council approved closing the public testimony portion of the public hearing. Mr. Sandoval made some additional remarks. Discussion ensued among the Council and staff.

It was moved by Councilman MacDonald, seconded by Councilwoman Basua, to approve the recommended action as presented. VOTE: Basua, Flynn, Lopez, MacDonald, Perello, and Ramirez voted in favor; Madrigal voted against. The motion carried 6-1.

D. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Flynn adjourned the meeting at 10:40 p.m.

MICHELLE ASCENCION, CMC
City Clerk

TIM FLYNN
Mayor

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M I N U T E S
OXNARD CITY COUNCIL
Regular Meeting
November 19, 2019

A. ROLL CALL, POSTING OF AGENDA

At 5:03 p.m., Mayor Flynn called to order the regular meeting of the Oxnard City Council in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Bryan A. MacDonald, Oscar Madrigal, Bert E. Perello, Mayor Pro Tem Carmen Ramirez, and Mayor Tim Flynn were present.

Staff members present were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Kenneth Rozell, Chief Assistant City Attorney; Jeffrey Lambert, Community Development Director; Scott Kolwitz, Planning Manager; and Michelle Ascencion, City Clerk.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(4)) (City Council)
   Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS - (Government Code Section 54956.8) (City Council)
   Property: Portion of the property located at the southwest corner of Wooley Road and Seabridge Lane (APN 188-0-250-305)
   Agency negotiators: Jeffrey Lambert, Scott Kolwitz and Kenneth Rozell
   Negotiating parties: Oxnard School District
   Under negotiation: Price and terms of payment.

Mayor Flynn read the following closed session statement:

"The City Council will recess to a closed session pursuant to Government Code section 54956.9(d)(4), based on existing facts and circumstances, to decide whether to initiate litigation in one potential case. The City Council will also recess to a closed session, pursuant to Government Code section 54956.8, to give instructions to its real property negotiators, Jeffrey Lambert, Community Development Director; Scott Kolwitz, Planning Manager; and Kenneth Rozell, Chief Assistant City Attorney, concerning negotiations with Oxnard School District regarding Item C-2 of the meeting agenda."

At 5:05 p.m., the City Council recessed to a closed session. At 6:16 p.m. the City Council reconvened in open session in the Council Chambers. The City Attorney made the following announcement:

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"Regarding item C-1, there was no action taken. On item C-2, real property negotiations, Council was briefed on the status of negotiations with the Oxnard School District regarding price and terms for the property located at the southwest corner of Wooley Road and Seabridge Lane. Negotiations have not concluded regarding this property."

D. OPENING CEREMONIES

The flag salute was followed by a moment of silence.

Additional staff members present at this time were Emilio Ramirez, Housing Director; Tatiana Arnaout, City Engineer; Rosemarie Gaglione, Public Works Director; Mike More, Human Resources Manager; Thien Ng, Assistant Public Works Director; and Phillip Molina, City Treasurer.

E. CEREMONIAL CALENDAR

1. SUBJECT: Presentation of a Commendation to Casa Pacifica on the Occasion of its 25th Anniversary.

Mayor Flynn read the commendation and presented it to Steven Elson, Casa Pacifica Chief Executive Officer, who made some remarks.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Ray Blattel (proposals for Performing Arts Center operator agreement), Luis Garcia (excessive speed of Amtrak trains; safety fence near railroads), Lang Martinez ("Humanizing Homelessness" documentary), Greg Runyon (kindness and unity for Thanksgiving), Pat Brown (downtown redevelopment), Lawrence Stein (GREAT water program, development impact fees), Tom Garcia (upcoming Downtown Oxnard Lions Club events), and Roberto Garcia (requesting a meeting with the City Manager).

G. REPORT OF CITY MANAGER

The Assistant City Manager gave a report on the funding sources for the Downtown Mural Project. Following the Housing Director's report, the City Manager gave an update on the status of power plant decommissions in California.

Housing Department

1. SUBJECT: Multi Service Center Mural Project at 1500 Camino Del Sol.
RECOMMENDATION: Receive and file a report regarding the multi service center mural project.

The Housing Director gave a report. Discussion ensued among the Council and staff. No action was required.

DRAFT

H. CITY COUNCIL REPORTS

Councilmember Lopez reported on the Bryce Canyon North neighborhood council meeting, an Oxnard College presentation on autonomous vehicles, and recent meetings with commercial property owners in the Saviers Road area regarding the possibility of creating a public square in South Oxnard.

Councilmember Perello commented on the upcoming arts projects, and reported on the Veterans Day commemoration ceremony and a recent tour of Ventura County water agencies. He commented on a recent VC Star article regarding the Performing Arts Center, the use of drones for crime fighting, the Library Board, the Oxnard College presentation on autonomous vehicles, and a recent free medical event at La Colonia.

Mayor Pro Tem Ramirez reported on a recent Ocean Protection Council meeting in Sacramento regarding Ormond Beach. She acknowledged employee Heather D'Anna who recently assisted with a rescue while hiking. She requested a future agenda item on pedestrian and bicycle safety. She acknowledged the Oxnard Film Society for screening foreign films at the downtown theater. She commented on health insurance and requested an upcoming item on supporting medicare-for-all.

Councilwoman Basua reporting on attending an early childhood development lecture at Oxnard College and the Investment Policy Committee meeting.

Councilmember Madrigal commented on a recent free medical screening event at La Colonia, the Multi Service Center mural, Veterans Day ceremonies, Friends of the Library book sale, and the Pacifica and Oxnard high school football teams' winning seasons.

Mayor Flynn gave an update on the city's recent actions in dealing with the homelessness issue.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-8, K-9, and K-10 were discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Alicia Percell and Pat Brown. Written comments were received from Debbie Mitchell.

K. INFORMATION/CONSENT AGENDA

City Clerk Department

1. SUBJECT: Approval of Minutes.
   RECOMMENDATION: That the City Council approve the minutes of the October 29, 2019 special meeting as presented.

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City Attorney Department

2. SUBJECT: Council Procedures Manual Update.
RECOMMENDATION: That the City Council adopt **Resolution No. 15,279** revising the Council Procedures Manual. (Finance and Governance Committee approved 3-0)

Community Development Department

3. SUBJECT: Adoption of Ordinance No. 2968 for California Building Standards Regulations.
RECOMMENDATION: That the City Council approve for second reading (by title only and waive further reading) and adoption of **Ordinance No. 2968** repealing and reenacting Articles II through XI, XV, and XVI of Chapter 14 of the Oxnard City Code, pertaining to the California Building Code, California Residential Code, California Green Building Standards Code, International Property Maintenance Code, Uniform Code for the Abatement of Dangerous Buildings, California Historical Building Code, California Electrical Code, California Existing Buildings Code, California Mechanical Code, California Referenced Standards Code, California Plumbing Code, Fire Codes, and Fire Sprinklers.

4. SUBJECT: Notice of Pending Approval for Final Map for Tract No. 5984 (Planning and Zoning Permit No. 19-300-03) to subdivide 3.96 acres of vacant land into two residential lots and 50 condominium units for property located at the northeast corner of Harbor Boulevard and Wooley Road (commonly known as Anacapa). Filed by Planet Home Housing Pool 2, LLC.
RECOMMENDATION: That the City Council receive and file this Notice of Pending Approval for the Final Map for Tract No. 5984 (Planning and Zoning Permit No. 19-300-03).

5. SUBJECT: Notice of Pending Approval for Final Map for Tract 6004 Associated with Planning & Zoning Permit No. 17-300-08 for the subdivision of 5.76 acres of undeveloped commercially zoned property into six lots ranging in size from 0.61 to 1.18 acres and vacation of City property on a parcel located on the Southside of Town Center Drive Between Oxnard Boulevard and North Ventura Road within the RiverPark Specific Plan Area. Filed by Ann Walsh of Shea Properties.
RECOMMENDATION: That the City Council adopt **Resolution No. 15,280** to:
1. Vacate 1,934 square feet of City property as shown in the proposed Final Map of Tract 6004; including the rights to a public right-of-way easement;
2. Authorize the Mayor to sign the owner statement on the title page of Tract 6004 Final Map;
3. Direct the City Clerk to sign the "Abandonment Certificate" for the vacation of certain properties; and
4. Receive and file a "Notice of Pending Approval" for the Final Map of Tract 6004 by the Community Development Director including signature of "City Council's Certificate" on the title sheet of the final map accepting the offers of dedications.

6. SUBJECT: Budget Appropriation for Highway 101-Rice Phase II Project.
RECOMMENDATION: That the City Council approves and authorizes a budget appropriation for the Highway 101-Rice Phase II (Project No. 163106) in the amount of $494,975. (Public Works and Transportation Committee approved 3-0)

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Finance Department

7. SUBJECT: Update to Administrative Manual Debt Collection Policy (D-23) and Resolution Authorizing Charge Off of Uncollectible Accounts.
RECOMMENDATION: That the City Council:
1. Receive and file an amendment to the Administrative Manual - Debt Collection Policy (D-23), which has already been approved by the City Manager and Deputy City Manager under their authority; and
2. Adopt **Resolution No. 15,281** delegating authority to charge off uncollectible accounts less than $25,000 to the City Manager or his designee.

Human Resources Department

8. SUBJECT: Resolution Amending the City-Wide Classification and Salary Resolution and Amending the Position Control Resolution for Public Works.
RECOMMENDATION: That the City Council approve **Resolution Nos. 15,282 and 15,283** amending the City-Wide Classification and Salary Resolution and amending the Position Control Resolution for Public Works.

Public Works Department

9. SUBJECT: Award Contract A-8190 for Route 23 Bus Stop Installation Project to Toro Enterprises, Inc.
RECOMMENDATION: That the City Council:
1. Award and authorize the Mayor to execute Agreement A-8190 in the amount of $765,294.50 for the Route 23 Bus Stop Installation Project PW 19-81 with Toro Enterprises, Inc.;
2. Approve $76,529 for Project contingency for the Route 23 Bus Stop Installation Project;
3. Approve $76,529 for engineering, inspection, survey and project management for the Route 23 Bus Stop Installation Project; and
4. Approve a Budget Appropriation of $859,592 for the Route 23 Bus Stop Installation Project. This amount includes $468,963 from the Air Pollution Buy Down fund (118) and an increase in Congestion Mitigation Air Quality (CMAQ) grant revenue fund (275) in the amount of, $390,629 for project 203105.

10. SUBJECT: Pre-Disaster Mitigation Program Application Resolution.
RECOMMENDATION: That City Council adopt **Resolution No. 15,284** authorizing the City Manager to submit applications for $7,922,714 in grant funds to the California Governor's Office of Emergency Services (Cal OES) to be used for: the Mandalay Bay Seawall Retrofit, the Emergency Backup Generator at the Del Norte Regional Recycling and Transfer Station, the Emergency Backup Generator at Police Headquarters and the Emergency Backup Generator and Electrical Building Construction at the Oxnard Wastewater Treatment Plant.

11. SUBJECT: Approve the Third Amendment to Agreement No. A-7848 with Hopkins Groundwater Consultants, Inc. for Hydrogeologic Services.
RECOMMENDATION: That the City Council approve and authorize the Mayor to

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execute the Third Amendment to Agreement No. A-7848 (Purchase Order 5794) with Hopkins Groundwater Consultants, Inc. ("HGC"), that:
1. Adds $500,000 for professional services for the final design and start-up of the City's Campus Park Aquifer Storage and Recovery (ASR) Well #1 project (Project);
2. Increases the professional services contract agreement from $750,000 to $1,250,000; and
3. Extends the expiration date to December 31, 2021.
(The Public Works and Transportation Committee approved 3-0)

It was moved by Councilman MacDonald, seconded by Councilmember Perello, to approve the Information/Consent items as presented. VOTE: Basua, Flynn, Lopez, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 7-0.

The Council approved considering item L-3 ahead of L-1.

L. REPORTS

Human Resources Department

3. SUBJECT: Resolution Providing Salary and Benefits to Executive and Unrepresented Employees.
RECOMMENDATION: That the City Council adopt **Resolution No. 15,285** providing salary and benefits to Executive and Unrepresented Employees.

The Human Resources Manager gave a report. Public comments were received from Ray Blattel. Discussion ensued among the Council and staff.

It was moved by Councilman MacDonald, seconded by Mayor Pro Tem Ramirez, to approve the recommended action, with direction to staff to return to Council with a discussion on confidential employees next month. VOTE: Basua, Flynn, Lopez, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 7-0.

Housing Department

1. SUBJECT: Oxnard Navigation Center Lease.
RECOMMENDATION: That the City Council approve and authorize the Mayor to sign a lease agreement with Fairgrow, LLC to occupy property located at 1258 Saviers Road, Oxnard, CA 93033 for use as a navigation center, which will provide a year-round 110 bed 24-hour homeless shelter, shower and laundry facilities, a meal program, pet service, housing navigation, and case management services to homeless individuals in the City of Oxnard. The term of the lease is for a minimum of five years and the base rent, property taxes and insurance over the five-year period will cost $1,517,077.

The Housing Director gave a report. Public comments were received from Ali Gonzalez, Richard Tucker, Tom Cady, Meredith Hart, Christy Madden, Paul Riley, Lucy Cartegena, Amy Santillan, Francisco Jaena, Yukio Okano, Gabriel Teran, Pat Brown, Sal Gonzalez, and Darlene Miller Gonzalez. Written comments were received from Gabriel Teran, Francine Castanon, and Richard Tucker. Discussion ensued among the Council and staff.

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It was moved by Mayor Pro Tem Ramirez, seconded by Mayor Flynn, to approve the recommended action as presented. VOTE: Flynn, Lopez, MacDonald, Perello, and Ramirez voted in favor; Basua and Madrigal voted against. Tthe motion carried 5-2.

Councilman MacDonald left the meeting, and the Council approved considering item L-4 ahead of L-2.

Public Works Department

4. SUBJECT: Award Solicitation PW 20-12 for Supply of Crucial Chemicals Required for Water, Water Reclamation and Wastewater Treatment.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the following:
1. Purchase Orders for supply and delivery of crucial chemicals to the City of Oxnard Wastewater Treatment Plant (OWTP), Headworks Facility, Advanced Water Purification Facility (AWPF), Water Campus and Water Blending Station No. 3 for a three (3) year period; and
2. Award Purchase Orders to the following vendors for three (3) year totals:
a) JCI Jones Chemicals, Inc. ($398,686.02)
b) Kemira Water Solutions, Inc. ($1,449,834.75)
c) Olin Corporation ($794,890.77)
d) Univar USA, Inc. ($431,734.88); and
3. Allow the Purchasing Manager to approve annual unit cost adjustments that remain within the Not To Exceed Limit of all Purchase Orders combined.

The Assistant Public Works Director gave a report. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem Ramirez, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, Flynn, Lopez, Madrigal, Perello, and Ramirez voted in favor; the motion carried 6-0 (MacDonald absent).

City Treasurer Department

2. SUBJECT: City Treasurer's Quarterly Investment Report for the period ending September 30, 2019.
RECOMMENDATION: That the City Council receive and file the report.

The City Treasurer gave a report. Discussion ensued among the Council and staff. No action was required.

M. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Flynn adjourned the meeting at 10:21 p.m.

MICHELLE ASCENCION, CMC
City Clerk

TIM FLYNN
Mayor

DRAFT

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.2.

DATE: December 3, 2019

TO: City Council

FROM: Stephen Fischer, City Attorney, (805) 385-7483, stephen.fischer@oxnard.org

SUBJECT: Council Committee Bylaws.

RECOMMENDATION

That the City Council adopt a resolution setting forth bylaws to establish regular meeting schedules for, powers and duties of, and types of business to be reviewed by the City Council committees established by Oxnard City Code Section 2-1.1. (Finance and Governance Committee approved 3-0)

BACKGROUND

As part of the transition from the Mayor plus four Councilmembers-at-large model to the Mayor plus six Councilmembers-by-district model following the November 2018 election, the Council adopted Ordinance No. 2949, which reorganized the Council meeting structure and replaced existing Council committees and task forces with five committees. Oxnard City Code Section 2-1.1, codified by Ordinance No. 2949, established the five Council committees, set forth the days and location for regular committee meetings, and provided that City Council would set meeting times by resolution and adopt bylaws setting forth the powers and duties of the Council committees.

Since commencing regular meetings in January of this year, the Council committees have served an advisory role, each reviewing items within their particular subject areas and making recommendations for action by the full City Council. With the recent review of the Internal Auditor program by the Finance and Governance Committee, delegation of authority beyond an advisory role is proposed. If Council wishes to make such a delegation, it should do so by resolution in accordance with OCC Section 2-1.1. (See Article II.A of the proposed resolution.)

The attached proposed Council resolution would adopt bylaws to (a) formalize the regular meeting schedule that has been utilized since the Council committees were created, (b) set forth the powers and duties of each committee, (c) provide guidance to staff regarding when items should be reviewed by the appropriate committee(s) prior to being considered by the City Council, and (d) acknowledge that the Mayor may consider City Councilmember requests to serve on a particular committee when making appointments.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on November 12, 2019 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Stephen Fischer, City Attorney

ATTACHMENTS

1. Council Committee Bylaws Reso.CC_agenda

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
APPROVING BYLAWS FOR COUNCIL COMMITTEES

WHEREAS, City Code Section 2-1.1 establishes the following City Council committees ("the Committees") consisting of three city council members per committee, appointed by the mayor and approved by at least four city councilmembers: Finance and Governance Committee; Public Works and Transportation Committee; Public Safety Committee; Housing and Economic Development Committee; and Community Services Committee; and

WHEREAS, City Code Section 2-1.1 establishes the second and fourth Tuesdays of every month in the city council chambers as the regular meeting dates and location for Committee meetings and provides that the City Council shall set meeting times by resolution; and

WHEREAS, City Code Section 2-1.1 further provides that the City Council shall adopt bylaws setting forth the powers and duties for each Committee.

NOW, THEREFORE**,** the City Council of the City of Oxnard resolves to adopt the bylaws attached hereto as Exhibit A to set forth times of Committee meetings and setting forth the powers and duties for each Committee, to be effective immediately.

PASSED and ADOPTED this 3rd day of December, 2019, by the following vote:

AYES:

NOES:

ABSENT:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

EXHIBIT A

BYLAWS FOR THE FINANCE AND GOVERNANCE, PUBLIC WORKS AND TRANSPORTATION, PUBLIC SAFETY, HOUSING AND ECONOMIC DEVELOPMENT, AND COMMUNITY SERVICES COMMITTEES

Article I
Application/Definition

A. The following bylaws shall apply to the following standing City Council Committees: Finance and Governance, Public Works and Transportation, Public Safety, Housing and Economic Development, and Community Services.

B. Throughout these bylaws:

1. "COMMITTEE" refers to each individual committee.

2. "MEETING" or "MEETINGS" refers to a COMMITTEE meeting.

3. "MEMBER" refers to a COMMITTEE member.

4. "CHAIR" refers to the appointed chairperson of a COMMITTEE.

Article II
Powers and Duties

A. The Finance and Governance Committee shall consider items of concern to the City Manager's Office and to Finance, City Treasurer, Human Resources, City Clerk, and Information Technology departments. The Finance and Governance Committee and its CHAIR are also delegated authority to oversee and coordinate Internal Auditor services as specifically set forth by separate Council resolution.

B. The Public Works and Transportation Committee shall consider items of concern to the Public Works Department.

C. The Public Safety Committee shall consider items of concern to the Police and Fire departments.

D. The Housing and Economic Development Committee shall consider items of concerns to the Housing and Economic Development departments, including the Housing Authority and Successor Agency.

E. The Community Services Committee shall consider items of concern to the Cultural and Community Services Department.

F. Items within the purview of a particular COMMITTEE as described in this Article are scheduled before the COMMITTEE under the following guidelines:

1. A brand new item should go to COMMITTEE, then forward to Council with COMMITTEE's recommendation.
2. An item already approved by Council that has continuing work can go straight to Council. If an ongoing item requires significant, substantive changes it should go back to COMMITTEE, then forward to Council with COMMITTEE's recommendation.
3. Routine items, such as adopting the State's newest building codes, can go straight to Council.
4. Public Hearings go straight to Council.
5. There are exceptions for urgency items, such as public safety reasons, items that have external deadlines imposed on the City (that the City learned of recently), items that have significant financial impact and a short deadline to respond, or new mandates from higher government authority requiring quick responses, which can go straight to Council.

G. Unless specifically provided in this Article or by separate Council resolution, the powers and duties of a COMMITTEE shall be limited to receiving reports for which no formal action is required and providing recommendations on items of business to be formally acted upon by the City Council.

Article III
Membership

A. Each COMMITTEE shall consist of three City Councilmembers appointed by the Mayor, and approved by at least four City Councilmembers. When making appointments, the Mayor may consider City Councilmember requests to serve on a particular COMMITTEE.

B. The term of a MEMBER shall be two years.

Article IV
Officers

A. For each COMMITTEE, the Council shall appoint one MEMBER as the CHAIR.

B. The duties of the CHAIR shall be as follows:

1. To preside at all MEETINGS;
2. Preserve strict order and decorum at all MEETINGS;
3. Announce the COMMITTEE's decision on all matters; and
4. Decide all questions of order, subject however, to an appeal by any MEMBER to the COMMITTEE as a whole, in which event a majority

vote of the COMMITTEE shall govern and conclusively determine questions of order.

C. Vice-Chair – If the CHAIR is absent from a MEETING, one of the MEMBERS shall act as the CHAIR for purposes of that MEETING.

Article V
Meeting Schedule/Quorum

A. The City Council by ordinance has established the COMMITTEE's regular MEETING dates as the 2nd and 4th Tuesday of each month, in the Council Chambers, at 305 West Third Street. The regular MEETING times for each COMMITTEE are as follows:

1. Finance and Governance: 9:30 a.m. - 10:45 a.m.
2. Public Works and Transportation: 11:00 a.m. - 12:15 p.m.
3. Public Safety: 2:00 p.m. - 3:15 p.m.
4. Housing and Economic Development: 4:30 p.m. - 5:45 p.m.
5. Community Services: 6:00 p.m. - 7:15 p.m.

B. Special MEETINGS may be called by the CHAIR or a majority of the COMMITTEE in compliance with the Brown Act and the City's Sunshine Ordinance. At a special MEETING, no business other than that officially noticed may be discussed.

C. Two MEMBERS shall constitute a quorum for the transaction of business. When there is no quorum, any MEMBER shall adjourn such MEETING or, if no MEMBER is present, the City Clerk shall adjourn the MEETING.

Article VI
Placing Items on the Agenda

A. Items are typically placed on a COMMITTEE agenda by City staff, or by the City Clerk following a Councilmember request made in accordance with the Procedures Manual of the Oxnard City Council.

B. A MEMBER requesting an item to be placed on a future agenda may (1) briefly announce their request during the "Items for Future Agendas" portion of a MEETING, (2) submit a detailed request in writing to the City Clerk, or (3) both. If a majority of the MEMBERS determine the COMMITTEE should consider the item, the City Manager will determine when to place the item on a future COMMITTEE agenda based on time necessary to research the item, staff workload considerations, and the effect on City Council established priorities.

Article VII
Coordination with City Council

The City Manager shall as soon as possible inform the City Council of recommendations made by the COMMITTEE.

Article VIII
Rules of Order

The latest version of the revised edition of "Rosenberg's Rules of Order" shall govern the conduct of COMMITTEE MEETINGS.

Article IX
Amendments

The City Council must approve amendments to these bylaws.

Article X
Minutes

The City Clerk shall prepare and maintain the minutes of each MEETING in a book as a record of each particular type of business transacted. The City Clerk shall be required to make a record only of such business as was actually passed upon by a vote of the COMMITTEE and shall not be required to record any remarks of MEMBERS or of any other person except at the special request of a MEMBER.

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.3.

DATE: December 3, 2019

TO: City Council

FROM: Darwin Base, Fire Chief, (805) 385-7700, darwin.base@oxnard.org

SUBJECT: FY 18 Assistance to Firefighters Grant. (5/5/5)

RECOMMENDATION

That the City Council adopt a resolution authorizing:
1. The City Manager or designee to execute $291,818.18 in grant funds from the Fiscal Year (FY) 18 Assistance to Firefighters Grant (AFG) to educate and license three firefighters as paramedics;
2. The City Manager or designee to execute grant agreements and appropriate funds upon notification of grant award;
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve administrative budget appropriation for the use of AFG funds upon award; and
4. The Fire Chief or designee to submit all program related progress or status reports.
(Public Safety Committee approved 2-0)

BACKGROUND

The City of Oxnard is eligible to accept an award of $291,818.18 for the Fiscal Year (FY) 2018 Assistance to Firefighters Grant (AFG) in Federal funding from the Department of Homeland Security. There is a 10% required City match portion of $29,181.82.

The purpose of the AFG program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards.

The City of Oxnard expanded service to include a Paramedic squad that provides advanced life support services to the community utilizing current members of the Fire Department who had maintained their California State Paramedic License. The goal of the Fire Department is to maintain staffing of the squad utilizing paramedics at the Firefighter rank, currently only two Firefighters have a paramedic license and the remaining pool is staffed with Engineer and Captain ranks.

Funding from FY 18 AFG will allow for three Firefighters to receive the paramedic license that would otherwise be cost prohibitive for the Fire Department. Paramedic school is a one year commitment that includes 460 hours of in class didactic instruction, 180 hours of a clinical lab in the hospital setting and 480 hours of lab spent in the field. FY 18 AFG funding will pay for tuition, station coverage, travel expenses and required materials.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.
Objective 1d. Examine options for long term sustainability of public safety services to ensure an efficient and effective public safety service delivery model.

FINANCIAL IMPACT

The FY 18 AFG grant provides reimbursement of costs associated with training and licensing three Firefighters as Paramedics amount of $291,818.18; costs include tuition, training supplies, travel expenses and station coverage. A matching requirement of 10% is required. There is sufficient Fiscal Year 2019-20 funding available in the General Fund Fire Department Operating Budget (101-2201) to meet the $21,886.37 required year one match. The $7,295.46 match amount required in the second fiscal year will be included in the Fiscal Year 2020-21 Budget (101-2201).

Below is a summary of the Federal funding and City General Fund match by fiscal year:

	FY 20	FY 21	Total
Federal Grant	218,863.64	72,954.55	291,818.18
General Fund	21,886.37	7,295.46	29,181.82
Total	240,750.00	80,250.00	321,000.00

COMMITTEE OUTCOME

The Public Safety Committee approved 2-0 on November 12, 2019 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Amy Van Atta, Management Analyst II

ATTACHMENTS

1. FY 18 AFG Paramedic Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING SUBMITTAL OF FEDERAL EMERGENCY MANAGEMENT AGENCY GRANT APPLICATION FOR TRAINING FUNDS

WHEREAS, City Council Resolution No.12,053 sets out the procedure by which City staff may submit grant applications, following approval by resolution of the City Council; and

WHEREAS, the Fire Department has requested that City Council approve the submittal of an application to the Federal Emergency Management Agency (FEMA) for $291,818.18 in grant funds to be used to educate and license three firefighters as Paramedics.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to approve the submittal of a grant application by the City Manager for Fire Department enhancement. The City Council further resolves that the City Manager or designee is authorized to execute grant agreements; the Chief Financial Officer or designee is authorized to submit financial reports and grant claims, approve special budget appropriations for the use of the grant funds and perform all other required financial actions; and the Fire Chief or designee is authorized to submit non-financial reports.

PASSED AND ADOPTED this _____ day of November, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Timothy Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.4.

DATE: December 3, 2019

TO: City Council
Housing Authority Board

FROM: Emilio Ramirez, Housing Director, (805) 385-8094, emilio.ramirez@oxnard.org

SUBJECT: Amending Funding Loan Agreement between Citibank, N.A., Funding Lender, and the Housing Authority of the City of Oxnard for $14,000,000 for Las Villas de Paseo Nuevo, which secured the issuance of Multi-Family Housing Revenue Bonds.

RECOMMENDATION

1. That the City Council approve and amend the Funding Loan Agreement between Citibank, N.A. and Housing Authority of the City of Oxnard for the $14,000,000 loan originated on February 1, 2012 for the 72-unit affordable rental project Las Villas de Paseo Nuevo Apartments located 5637 to 5727 Cypress Road, Oxnard, allowing Citibank to standardize and securitize loans within its portfolio providing more capital for future project loans.
2. That the Housing Authority Board of Commissioners approve and amend the Funding Loan Agreement between Citibank, N.A. and Housing Authority of the City of Oxnard for the $14,000,000 loan originated on February 1, 2012 for Las Villas de Paseo Nuevo Apartments located at 5637 to 5727 Cypress Road, Oxnard, allowing Citibank to standardize and securitize or consolidate their loans within its portfolio providing more capital for future project loans.

BACKGROUND

On June 21, 2011, the City Council and the Housing Authority of the City of Oxnard Board of Commissioners adopted a resolution permitting the Oxnard Housing Authority to develop Las Villas de Paseo Nuevo Apartments, a 72-unit affordable rental housing complex on 4.93-acre parcel located 5637 to 5727 Cypress Road on the south side of Oxnard. These are 2-bedroom and 3-bedroom units offered to 50% and 60% of area median income households following tax-credit regulations and permitting tenant-based Section 8 vouchers.

The Oxnard Housing Authority applied to the California Debt Limit Allocation Committee for an allocation of tax-exempt bond authority to issue multifamily housing revenue bonds to finance the development by Paseo Nuevo Partners, L.P., of Las Villas de Paseo Nuevo Apartments up to a maximum of $16,000,000. The Governmental Lender Note was originated on February 1, 2012 for $14,000,000.

Citibank, N. A., the funding lender for this loan, is the largest affordable housing lender in the country and has originated over $10 billion in loans for the affordable housing industry over the past few years. Many were held on proprietary basis on Citibank's balance sheet.

To continue originating affordable multifamily housing loans, Citibank must consolidate its portfolio in this market, bundle the existing loans, market those to deploy more available funds, expanding the capacity to originate new loans for the affordable multifamily housing market. Historically, the funding loan agreements executed previously did not anticipate this type of securitization and the language of those agreements between Citibank and each governmental lender respectively must be amended to allow for this new securitization effort, providing the new definition of the

"Approved Transferee" and the specific procedures for the transaction to occur.

DISCUSSION

Citibank will achieve the securitization using municipal conduit issuers (e.g. Cal HFA) with Citi selling its loans to municipal issuers using pass-through certificates secured by loans into the municipal market. The pass-through certificates, rated by S & P at investor grade, will be sold in a public offering. Citi Global Markets, Inc. will act as the underwriter. Citi worked with S & P on the first such securitization receiving a BBB+ rating on those pass-through certificates.

Through this amendment, Citibank, N.A. seeks to amend the funding loan agreement with the following:

1. Add a definition to "Approved Transferee": Transfers to (i) a governmental entity or (ii) a trust or custodial arrangement established by a governmental entity, as long as any beneficial interests that are issued and secured by the loans are either (a) rated BBB- or higher (investment grade) or (b) purchased by a qualified institutional buyer (QIB);

2. Removing the Minimum Beneficial Ownership Amount requirement allowing purchase of less than 15% for such transfers;

3. Removing the Required Transferee Representations or investor letters for such transfers.

While the amendment creates another type of Approved Transferee, it still strengthens the requisite financial expertise, knowledge and capital available to reduce the risk to the whole portfolio by securitizing performing, well secured, seasoned loans on a pooled basis. These are offered with full disclosure documentation and investment grade ratings so that investors can make fully informed decisions when purchasing the pass-through certificates.

Citibank believes that consolidating the loans, repackaging into pass-through certificates offered by municipal conduit issuers will create greater liquidity; making more funds available to originate more affordable multifamily housing loans and reduce costs for affordable housing development to ultimately develop more affordable housing in this community.

The amended funding loan agreement does not benefit or damage the Oxnard Housing Authority or the Las Villas de Paseo Nuevo. Housing Director recommends approval in a good faith effort to permit Citi to consolidate its portfolio thus making more funds available for additional affordable housing production.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

1. Amendment to Funding Loan Agreement - Las Villas de Paseo Nuevo

AMENDMENT TO FUNDING LOAN AGREEMENT

by and between

CITIBANK, N.A.,
as the Funding Lender

and

HOUSING AUTHORITY OF THE CITY OF OXNARD,
as the Governmental Lender

dated as of September 1, 2019

---

relating to:

$14,000,000
Original Principal Amount
Housing Authority of the City of Oxnard
2012 Multifamily Mortgage Revenue Note
(Las Villas de Paseo Nuevo)

AMENDMENT TO FUNDING LOAN AGREEMENT

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AMENDMENT TO FUNDING LOAN AGREEMENT

This **AMENDMENT TO FUNDING LOAN AGREEMENT** dated as of September 1, 2019 (this "***Amendment***"), by and between **CITIBANK, N.A.** (together with any successor to its rights, duties and obligations hereunder, the "***Funding Lender***") and **HOUSING AUTHORITY OF THE CITY OF OXNARD** (together with any successor to its rights, duties and obligations hereunder, the "***Governmental Lender***").

A. Pursuant to the terms of that certain Funding Loan Agreement dated as of February 1, 2012 (the "***Original Funding Loan Agreement***"), the Governmental Lender issued its promissory note in the maximum principal amount of $14,000,000 (the "***Governmental Lender Note***").

B. The proceeds of the Governmental Lender Note were used to fund a loan in the total principal amount of $14,000,000 to Paseo Nuevo Partners, L.P., a California limited partnership (the "***Borrower***") from the Governmental Lender pursuant to that certain Borrower Loan Agreement dated as of February 1, 2012, by and between the Governmental Lender and the Borrower for the purposes described therein.

C. The Funding Lender is now the holder of the Governmental Lender Note and the Funding Lender under the Original Funding Loan Agreement.

D. The Funding Lender and the Governmental Lender have agreed to make certain changes to the Original Funding Loan Agreement.

For and in consideration of the mutual agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1. Definitions. The capitalized words and terms used in this Amendment shall have the meanings as set forth in the Original Funding Loan Agreement, unless the context or use indicates a different meaning or intent, or unless a different meaning is ascribed to them herein.

Section 1.2. Interpretation. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to included correlative words of the plural number and vice versa. This Amendment and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

Section 1.3. Titles and Headings. The title and headings of the articles and sections of this Amendment have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Amendment or any provision hereof or in ascertaining intent, if any question of intent should arise.

ARTICLE II

AMENDMENTS

Section 2.1. Amendment to Article I. Section 1.1 of the Original Funding Loan Agreement is hereby amended by (a) adding a new definition for "***Approved Transferee***":

"Approved Transferee" means (1) a "qualified institutional buyer" ("QIB") as defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the "Securities Act") that is a financial institution or commercial bank having capital and surplus of $5,000,000,000 or more, (2) an affiliate of the Funding Lender, (3) a trust or custodial arrangement established by the Funding Lender or one of its affiliates or any state or local government or any agency or entity which is a political subdivision of a federal, state or local government (a "Governmental Entity"), in each case (i) the beneficial interests in which will be owned only by QIBs or (ii) the beneficial interests in which will be rated in the "BBB" category or higher without regard to modifier (or the equivalent investment grade category) by at least one nationally recognized rating agency, or (4) a Governmental Entity.

(b) adding a new definition for "***Minimum Beneficial Ownership Amount***":

"Minimum Beneficial Ownership Amount" means an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

(c) adding a new definition for "***Required Transferee Representations***":

"Required Transferee Representations" means the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

Section 2.2. Amendments to Article II. Section 2.4(b) of the Original Funding Loan Agreement is hereby amended by deleting that subsection in its entirety and replacing it with the following:

"The Funding Lender shall have the right to sell (i) the Governmental Lender Note and the Funding Loan, or (ii) any portion of or a participation interest in the Governmental Lender Note and the Funding Loan, to the extent permitted by Section 2.4(e) below, provided that such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender, the Required Transferee Representations; provided, however, that no Required Transferee Representations shall be required to be delivered by transferees or beneficial interest holders described in clauses (3) or (4) of the definition of "Approved Transferee."

Section 2.4(e) shall be added to the Original Funding Loan Agreement as follows:

"Notwithstanding the other provisions of this Section 2.4, no beneficial ownership interest in the Governmental Lender Note and the Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount; provided, however, that beneficial ownership interests in the Governmental Lender Note and Funding Loan described in clause (3) of the definition of "Approved Transferee" may be sold in any amount without regard to the Minimum Beneficial Ownership Amount."

Section 2.3. Amendment to add new Exhibit B, a form of Required Transferee Representations.

Exhibit B to the Original Funding Loan Agreement shall be amended and restated as follows:

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

_____, 20__

The undersigned, as holder (the "Holder") of the loan (the "Funding Loan") in the original amount of $14,000,000 from CITIBANK, N.A. (the "Funding Lender") to the HOUSING AUTHORITY OF THE CITY OF OXNARD (the "Governmental Lender") evidenced by the Government Lender's 2012 Multifamily Mortgage Revenue Note (Las Villas de Paseo Nuevo) dated February 13, 2012 (the "Governmental Lender Note") originated under a Funding Loan Agreement dated as of February 1, 2012 (the "Funding Loan Agreement") between the Funding Lender and the Governmental Lender, hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project to be able to evaluate the risk and merits of the investment represented by the Funding Loan. We are able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, [the Project] [the use of proceeds of the Funding Loan] and the Funding Loan and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to [extend/purchase] the Funding Loan [or an interest therein]. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder's purchase of the Funding Loan [or an interest therein].

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing [an interest in] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Loan; provided, however, that the Holder may sell or transfer the Governmental Lender Note and the Funding Loan as provided in Section 2.4 of the Funding Loan Agreement.

5. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Loan will disclose information with respect to the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and the Borrower Loan and the related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

6. The Holder understands that the Governmental Lender Note is a limited obligation of the Governmental Lender; payable solely from funds and moneys pledged and assigned under the Funding

Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Governmental Lender Note are expressly limited as set forth in the Funding Loan Agreement and related documents.

7. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

ARTICLE III

MISCELLANEOUS

Section 3.1. Ratification of the Original Funding Loan Agreement. Except as supplemented and amended hereby, the Original Funding Loan Agreement is in all respects ratified and confirmed and the Original Funding Loan Agreement as so supplemented and amended hereby shall be read, taken and construed as one and the same instrument. Except insofar as herein otherwise expressly provided, all the provisions, definitions, terms and conditions of the Original Funding Loan Agreement as supplemented and amended hereby, shall be deemed to be incorporated in, and made a part of, this Amendment, and the Original Funding Loan Agreement as supplemented and amended by this Amendment and as otherwise supplemented and amended is in all respects ratified and confirmed.

Section 3.2. Authorization of Amendment. This Amendment shall be construed as having been authorized, executed and delivered under the provisions of Section 10.1 of the Original Funding Loan Agreement. The Funding Lender hereby waives the provisions of Section 10.3 of the Original Funding Loan Agreement requiring the delivery of an Opinion of Counsel and a Tax Counsel No Adverse Effect Opinion in connection with the execution of this Amendment.

Section 3.3. Binding Effect. This Amendment shall inure to the benefit of and shall be binding upon the Governmental Lender, the Funding Lender, any Approved Transferee and their respective successors and assigns.

Section 3.4. Severability. If any provision of this Amendment shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatsoever.

Section 3.5. Governing Law. This Amendment shall be governed exclusively by and construed in accordance with the internal laws of the State applicable to contracts made and performed in the State.

Section 3.6. Inclusion as Part of the Funding Loan Agreement. This Amendment on its delivery shall be a part of the Funding Loan Agreement and all references herein to “Funding Loan Agreement” shall include reference to this Amendment as well as the Original Funding Loan Agreement.

Section 3.7. Counterparts. This Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature Page for Las Villas de Paseo Nuevo Funding Loan Agreement Amendment]

IN WITNESS WHEREOF, the parties have executed this Amendment to Funding Loan Agreement, all as of the date first above written.

HOUSING AUTHORITY OF THE CITY OF OXNARD

By: _____
Name:
Title:

CITIBANK, N.A., as Funding Lender

By: _____
Name:
Title: Vice President
Citi Deal ID #20237

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.5.

DATE: December 3, 2019

TO: City Council

FROM: Scott Whitney, Police Chief, (805) 385-7624, scott.whitney@oxnardpd.org

SUBJECT: Supplemental Law Enforcement Services Fund.

RECOMMENDATION

That the City Council:
1. Recognize $318,079 in grant revenue from the State Supplemental Law Enforcement Services Fund (SLESF) for Citizens Option for Public Safety (COPS) Program;
2. Approve a budget appropriation in the amount of $318,079 for Body Worn Camera Storage Fees; and
3. Authorize the Chief Financial Officer or designee to approve additional budget appropriations if awarded.
(Public Safety Committee approved 2-0)

BACKGROUND

The County of Ventura will receive an estimated allocation of $1,623,888 from the State Department of Finance for front line law enforcement funds as part of the Supplemental Law Enforcement Services Funds (SLESF). The State of California allocates funds to cities and counties based on population. The City of Oxnard's estimated portion is $318,079. The SLESF funds result from a 0.15% Vehicle License Fee (VLF) and are meant to supplement existing services, and may not be used to supplant any existing funding for law enforcement services.

These funds will be used for the annual subscription costs related to the Department's body-worn camera (BWC) program.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

FINANCIAL IMPACT

Approval of the recommended action will recognize State grant revenue and appropriate the FY19-20 SLESF COPS Program allocation of $318,079 (Project 662157, Fund 195-State COPS Grant). No matching funds are required.

COMMITTEE OUTCOME

The Public Safety Committee approved 2-0 (Ramirez absent) on November 12, 2019 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Delia Campbell, Police Finance Manager

ATTACHMENTS

1. BA $ 318,079 FY19-20 COPS SLESF

REQUEST FOR BUDGET APPROPRIATION

Department: Police Department
Date: November 12, 2019
Project/Program Manager: Delia Campbell
Phone: 805-385-7612

Reason for Appropriation:

To recognize State grant revenue and appropriate funds from the Supplemental Law Enforcement Services Fund FY19-20, which is subgranted through the County of Ventura.

Accounts and Descriptions		AMOUNT
Fund: 195 - STATE COPS GRANT		
Revenues/Transfers In		
COPS Prog (SLESF FY19-20) (Project #662157)		
195-2030-532-7231	STATE GRANT REVENUES	318,079
	Sub-total Revenues	318,079
Expenditures/Transfers Out		
COPS Prog (SLESF FY19-20) (Project #662157)		
195-2030-802-8209	SRVCS-OTHER PROF/CONTRACT	318,079
	Sub-total Expenditures	318,079
	Net Change to Fund Balance	**0**
	Net Appropriation Change	**318,079**

Approvals

Department Director

Chief Financial Officer

City Manager

BA# (Finance Use Only)_____
BA Doc# (Finance Use Only)_____

REQUIRES CITY COUNCIL AUTHORIZATION

Revised : 2/23/2012

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.6.

DATE: December 3, 2019

TO: City Council

FROM: Scott Whitney, Police Chief, (805) 385-7624, scott.whitney@oxnardpd.org

SUBJECT: Federal and State Asset Forfeiture Funds.

RECOMMENDATION

That the City Council approve a budget appropriation in the amount of $320,786 for the use of Federal ($207,786) and State ($113,000) asset forfeiture funds allocated to the City of Oxnard Police Department. The funds will be used for training and equipment purchases not normally associated with general fund expenditures. (Public Safety Committee approved 2-0)

BACKGROUND

The Oxnard Police Department participates with outside agencies in the investigation and prosecution of narcotics related crimes. Assets seized are proportionately shared among the agencies. These equitably shared funds must be used by law enforcement agencies for law enforcement purposes only and cannot replace or supplant existing resources. The current year's appropriation will be used for training opportunities that are not reimbursed by California P.O.S.T. (Peace Officers Standards & Training), various equipment purchases not historically covered via general fund expenditures, and funding community programs designed to combat gang activity and drug abuse.

We have identified several equipment purchases that support the Department's 2019 goals of Community Safety, Community Engagement, Neighborhood Problem-Solving, and Tools for Success including:

Equipment to support criminal investigation
Equipment to support first responder capabilities
Property and Evidence Division storage room improvements
Telecommunications & computer upgrades for the Mobile Command Post
Tactical equipment (e.g. night vision, binoculars, and cameras)

California Health & Safety Code section 11489(a)(2)(A)(i) mandates that 15% of state asset seizure funds "be used for the sole purpose of funding programs designed to combat drug abuse and gang activity…for high-risk elementary and secondary school students." The designated portion of these seizure funds will be used to work closely with local community-based organizations to accomplish these goals.

In 2018, the Oxnard Police Department conducted an application process for Asset Seizure Community Funds and received ten (10) applications from local community-based organizations. Applicants were scored on criteria that included: locality, target population, project benefits, evidence of need/prior success, and demonstrated program/applicant need. We were able to provide mini-grants between $ 2,500 to $5,000 to the following organizations:

Cityview Worship Church

Oxnard Church of the Nazarene
Hip-Hop Mindset
Oxnard Housing Authority - Resident Services Mural Project
Revive Community Church
Casa De Vida
DRAGG
Young Life

We plan to conduct a similar application process upon the approval of this recommendation.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Objective 1a. Create a renewed focus on police/community relations with underserved communities and youth population.

Objective 1d. Examine options for long term sustainability of public safety services to ensure an efficient and effective public safety service delivery model.

FINANCIAL IMPACT

Of the $ 320,786 appropriation requested, $ 207,786 will be appropriated to Asset Seizure-Vxnet Fed Fund 230 (Project #662158) for equipment and training, and $ 113,000 will be appropriated to Asset Seizure-State Fund 191 (Project #662158) for equipment and community programs. The projected FY2019-20 ending unassigned fund balance of Asset Seizure-Vxnet Fed (Fund 230) and Asset Seizure-State (Fund 191) is $0.02 million and $0.14 million, respectively, net of this appropriation request. Approval of this recommendation will have no impact on the General Fund.

COMMITTEE OUTCOME

The Public Safety Committee approved 2-0 (Ramirez absent) on November 12, 2019 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Delia Campbell, Police Finance Manager

ATTACHMENTS

1. BA - FY19-20 Federal & State AFF

REQUEST FOR BUDGET APPROPRIATION

Department: Police Department **Date:** November 12, 2019
Project/Program Manager: Delia Campbell **Phone:** 805-385-7612

Reason for Appropriation:

To recognize Federal and State Asset Seizure revenues and appropriate the funds for the FY19-20 operations.

Accounts and Descriptions		AMOUNT
Fund: 191 - ASSET SEIZURE - STATE		
Revenues/Transfers In		
ASSET SEIZURE - STATE (#662158)		
191-2107-561-7466	ASSET SEIZURE-FINES & FORFEITURES	113,000
	Sub-total Revenues	113,000
Expenditures/Transfers Out		
ASSET SEIZURE - STATE (#662158)		
191-2103-802-8209	SRVCS-OTHER PROF/CONTRACT	25,000
191-2103-802-8606	MACHINERY & EQUIPMENT-NEW	88,000
	Sub-total Expenditures	113,000
	Net Change to Fund Balance	**0**
	Net Appropriation Change	**113,000**
Fund: 230 - ASSET SEIZURE - FEDERAL		
Revenues/Transfers In		
ASSET SEIZURE - FEDERAL (#662158)		
230-2107-561-7466	ASSET SEIZURE-FINES & FORFEITURES	207,786
	Sub-total Revenues	207,786
Expenditures/Transfers Out		
ASSET SEIZURE - FEDERAL (#662158)		
230-2103-802-8134	MINOR EQUIPMENT	87,286
230-2103-802-8209	SRVCS - OTHER PROF/CONTRACT	7,000
230-2103-802-8343	TRAINING	75,000
230-2103-802-8606	MACHINERY & EQUIPMENT-NEW	38,500
	Sub-total Expenditures	207,786
	Net Change to Fund Balance	**0**
	Net Appropriation Change	**207,786**

Approvals

Department Director Jason Baltz

Chief Financial Officer

City Manager

REQUIRES CITY COUNCIL AUTHORIZATION

BA# (Finance Use Only)
BA Doc# (Finance Use Only)
Revised : 2/23/2012

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.7.

DATE: December 3, 2019

TO: City Council

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Award Agreement A-8184 to Huitt-Zollars for the Bicycle and Pedestrian Facilities Project.

RECOMMENDATION

That the City Council authorize the Mayor to sign and execute Agreement A-8184 in the amount of $218,137 with Huitt-Zollars for the Bicycle and Pedestrian Facilities Project No. 133102/163101. (Public Works and Transportation Committee approved 3-0)

BACKGROUND

The Bicycle & Pedestrian Facilities project will improve bicyclist and pedestrian safety and improve connectivity within the City's bicycle and pedestrian network on approximately 16 streets in the Northeast Community (Project No. 133102) and intersections along Cloyne Street from Channel Islands Boulevard to Hueneme Road (Project No. 163101). This scope combines two projects and includes designing Class II and III bicycle facilities, bicycle detection, curb extensions, sidewalks, signage and striping. Preliminary engineering work has been partially completed for the Northeast Community streets and will be updated to incorporate work along Cloyne Street. Combining two projects improves the economy of scale for both the design and construction phases.

Bikeway types are identified in the City's Bicycle & Pedestrian Facilities Master Plan (Plan). See attachment number 5. The Plan refers to the Caltrans Highway Design Manual, which currently defines bikeway types as follows:

Class I Bikeway (Bike Path): Provides a completely separated facility for the exclusive use of bicycles and pedestrians with crossflow by vehicles minimized.

Class II Bikeway (Bike Lane): Provides a striped lane for one-way bike travel on a street or highway.

Class III Bikeway (Bike Route): Provides for shared use with pedestrian or motor vehicle traffic.

Class IV Bikeway (Separated Bikeway): Provides for the exclusive use of bicycles and includes a separation (e.g., grade separation, flexible posts, inflexible physical barriers, or on-street parking) required between the separated bikeway and the through vehicular traffic. (New classification, not included in the 2011 Bicycle & Pedestrian Facilities Master Plan).

DISCUSSION

The Project was included in the 2019-2024 Five Year Capital Improvement Program and was advertised for consultants to prepare Plans, Specifications & Estimates (PS&E) on July 15, 2019 with proposals due on August 14, 2019. The City received three proposals and Staff that consisted of the Project Manager, Traffic Engineer, and City Engineer evaluated for completeness, qualifications & experience, organization & approach, scope of services, schedule of work, conflict of

interest, and references. Huitt-Zollars was selected as the most qualified consultant. The total estimated contract is $218,137 and requires City Council approval.

The Project is funded in part by a $58,536 federal Congestion Mitigation Air Quality (CMAQ) grant (Fund 275), two regional Transportation Development Act (TDA) Article 3 grants for $75,000 and $93,250 (Fund 214), $100,000 from the Traffic Safety Fund (Fund 182) and $83,423 of Air Pollution Buydown Fee (Fund 118). The project qualified for Air Pollution Buydown Fees pursuant to the City's intent to implement reasonable available transportation control measures from the Ventura County Air Quality Management Plan. Total expenditures to date are $98,599 and there is sufficient funding remaining for the contract amount.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to establish, preserve and improve our infrastructure and natural resources through effective planning, prioritization, and efficient use of available funding. This item supports the following goals and objectives:

Goal 4. Ensure proper construction and maintenance of infrastructure to provide maximum benefit with lowest life cycle cost following CIP plans.

FINANCIAL IMPACT

There is sufficient funding available in Capital Improvement Projects: Bike Facilities NE Plan (Project No. 133102) and Cloyne St Bike & Pedestrian Improvement (Project No. 163101) to award the contract. Funding of the contract in the amount of $218,137 is from the following sources: $60,263 from Air Pollution Buydown Fee (Fund 118), $9,542 from Traffic Safety Fund (Fund 182), $141,584 from Transportation Development Act (Fund 214), and $6,748 from Federal Transportation CMAQ Grant (Fund 275). Detailed funding of the contract amount, contingency and estimated staff time per project is as follows:

Fund	Project Number	FY19-20 Balance Available	Contract A-8184	Contingency	Staff Time Project Management
275 – Federal Transportation Grant	133102	$969,377	$6,748	$0	
118 – Air Pollution Buydown	133102	$67,011	$60,263	$0	$6,748
214 - TDA	133102	$69,378	$69,378	$0	
214 - TDA	163101	$72,206	$72,206	$0	
182 – Traffic Safety Fund	163101	$97,336	$9,542	$21,813	$15,065
		Total	$218,137	$21,813	$21,813

COMMITTEE OUTCOME

The Public Works and Transportation Committee voted 3-0 on November 12, 2019 to approve staff recommendation and to forward the item for Council approval.

Prepared by: Debbie O'Leary, Transportation Planner

ATTACHMENTS

1. Huitt-Zollars - A-8184 PW 17-36 - 10.24.19
2. Huitt-Zollars Cost Proposal rev.2
3. Northeast Community Project Location rev.2

4. Cloyne Street Project Location rev.2
5. City of Oxnard Bicycle & Pedestrian Facilities Master Plan Bikeway Types

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (**"Agreement"**) is made and entered into in the County of Ventura, State of California, this 5th day of November, 2019, by and between the City of Oxnard, a municipal corporation (**"City"**), and Huitt-Zollars, Inc. (**"Consultant"**). City and Consultant are sometimes individually referred to as **"Party"** and collectively as **"Parties."**

WHEREAS, City desires to hire Consultant to perform certain consulting services specified herein; and

WHEREAS, Consultant represents that Consultant and/or Consultant's personnel have the qualifications and experience to properly perform such services.

NOW, THEREFORE, City and Consultant hereby agree as follows:

1. Scope of Services

Consultant shall furnish City with professional consulting services as more particularly set forth in **Exhibit A** attached hereto and incorporated herein by this reference (the **"Services"** or collectively the **"Project"**). In the event of any conflict between the terms of the Agreement and any exhibits or other incorporated document(s), the terms of the Agreement shall control.

2. Method of Performing Services

Subject to the terms and conditions of this Agreement, Consultant may determine the method, details, and means of performing the Services.

3. Standard of Performance

Consultant shall undertake and complete the Services to conclusion, using that standard of care, skill, and diligence normally provided by a professional person in performance of similar consulting services.

4. Nonexclusive Services

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. Performing such services will not materially interfere with the Services to be performed for the City.

5. Coordination of Services

The Services shall be coordinated with Debbie O'Leary, Transportation Planner (**"Manager"**), subject to the direction of the City Manager or Public Works Director.

6. Place of Work

Consultant shall perform the Services provided for in this Agreement at any place or location and at such times as the Consultant shall determine.

7. 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.

8. Time for Performance

The Services performed under this Agreement shall be completed during the term of this Agreement pursuant to the schedule provided in **Exhibit B** attached hereto and incorporated herein by this reference. City agrees to amend the performance termination date whenever Consultant is delayed by action or inaction of City and Consultant promptly notifies Manager of such delays.

9. Principal in Charge

Consultant hereby designates Kevin Carter as its principal-in-charge and person responsible for necessary coordination with Manager.

10. Permits, Licenses, Certificates

Consultant, at Consultant's sole expense, shall obtain and maintain during the term of this Agreement, all permits, licenses, and certificates required in connection with the performance of the Services, including a City business tax certificate.

11. City's Responsibility

City shall cooperate with Consultant as may be reasonably necessary for Consultant to perform the Services. Manager agrees to provide direction to Consultant as requested regarding particular requirements.

12. Term of Agreement

This Agreement shall begin on November 5, 2019, and expire on November 5, 2022.

13. Termination

This Agreement may be terminated by City for cause or convenience and at no cost to the City if Manager notifies Consultant, in writing, of Manager's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery

or mailing of such notice; however, if the City terminates the Agreement due in any part to a termination or reduction of State or federal funding, the termination shall be effective immediately upon the date of delivery or mailing of such notice. City agrees to pay Consultant in full for all amounts due Consultant for Services successfully rendered, as determined solely by City, as of the effective date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed $218,137 for the Services at rates provided in **Exhibit C** attached hereto and incorporated herein by this reference.

b. The acceptance by Consultant of the final payment made under 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.

c. Payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants 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, its employees, subcontractors, agents and subconsultants.

d. Consultant shall provide Manager with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service.

e. 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.

15. Method of Payment

a. City agrees to pay Consultant monthly upon satisfactory completion of the Services and upon submission by Consultant of an invoice delineating the Services performed, in a form satisfactory to Manager. The invoice shall identify the Services by project as specified by Manager. Consultant waives payment for any item not appearing on an invoice in the month in which such Services were rendered; in any case, Consultant shall not "back-charge" Services performed.

b. City must submit invoices to the granting agencies on its letterhead with its address formatted in accordance with the Local Assistance Procedures. Should City need any documentation or additional information from Consultant in order to submit City's invoices to the granting agencies, Consultant shall provide such documentation or additional information within ten (10) calendar days of the request from the City.

c. Consultant shall maintain current monthly records, books, documents, receipts, papers, accounts and other evidence pertaining to the Services performed and costs incurred.

Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant shall provide Manager with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

d. Consultant must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by Consultant. Consultant agrees to submit supporting backup documentation with invoices if requested by City or State. Acceptable backup documentation includes, but is not limited to, a progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of costs.

e. Consultant agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, *et seq.* and all applicable federal and State laws and regulations shall be used to determine the allowability of individual Project cost items.

16. Responsibility for Expenses

Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services. All expenses incident to the performance of the Services shall be borne by the Consultant, including, but not limited to rent, vehicle, and travel, entertainment and promotion, general liability and health insurance, workers' compensation insurance, and all compensation and benefits of employees or agents engaged by Consultant. Consultant shall, at its own cost and expense, supply all personal property necessary or appropriate to perform the Services provided for under this Agreement, including, but not limited to any personal property used by employees and agents of Consultant in the performance of such Services. Travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the Consultant or its subcontractors.

17. Non-Appropriation of Funds

a. 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 appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

b. Consultant acknowledges that this is a federally and State-funded project. All contractual obligations of both the State and the federal government are subject to the appropriation of resources by the State Legislature and Congress, respectively, and the allocation of resources by various entities, including the California Transportation Commission (CTC) and the United States Department of Transportation. Payments, including those made from City matching funds, to be made to Consultant by City for the Services performed are contingent upon the City receiving all federal and State funding.

c. In the event of the imposition of additional conditions, delays, or a cancellation or reduction in funding, as approved by the Legislature, the CTC or the United States Department of Transportation, Consultant shall be excused from meeting the time and expenditure constraints set forth in the Project Financial Plan and the Project Schedule to the extent of such delay, cancellation or reduction and the Project documents will be amended to reflect the resultant necessary changes in Project funding, scope, or scheduling.

d. Federal and State funds allocated from the State Transportation Improvement Program (STIP) are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and the State, which are incorporated herein by this reference.

18. Records

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data and photographs expressly required to be prepared by Consultant as part of the scope of services (**"documents and materials"**) shall be the property of City and shall, upon completion of the Services or termination of this Agreement, be delivered to Manager.

b. At City's request, City shall be entitled to immediate possession of, and Consultant shall furnish to Manager within ten (10) calendar days, all of the documents and materials. Consultant may retain copies of these documents and materials.

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 uncompleted documents and materials, without the written consent of Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant. City agrees to hold Consultant harmless from all damages, claims, expenses and losses arising out of any reuse of the documents and materials for purposes other than those described in this Agreement, unless Consultant consents in writing to such reuse.

19. Maintenance and Inspection of Records

a. 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 19 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.

b. City and State each reserve the right to conduct technical and financial audits of the work and records and Consultant agrees, and shall require its contractors and subcontractors to agree, to cooperate with City, State or both by making all appropriate and relevant records available for audit and copying as required in section 19(c).

c. Consultant and its contractors and subcontractors shall each maintain and make available for inspection and audit by City, State, the California State Auditor, or any duly authorized representative of State or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement or any subcontractor's agreement related to the Services, including, but not limited to, the costs of administering the Agreement. Consultant shall furnish copies thereof if requested. All of the above-referenced parties shall make such agreements and all contract materials available at their respective offices at all reasonable times during the entire Term and for three (3) years from the date of submission of the final expenditure report by the State to the FHWA.

d. Consultant shall maintain and make available to the City all documents related to the Services, including without limitation engineering, financial and other data, and methodologies and assumptions used in the determination of Project benefits during the course of the Project, and retain those records for four (4) years from the date of the final closeout of the Project. The Transportation Inspector General of the Independent Office of Audits and Investigations has the right to audit records relating to the Project, including technical and financial data, of the Department of Transportation, the State, the City, Consultant, and any sub-consultants at any time during the course of the Project and for four (4) years from the date of the final closeout of the Project. Therefore, all Project records shall be maintained and made available at the time of request. Financial records will be maintained, and audits will be conducted, in accordance with Generally Accepted Government Auditing Standards.

e. City may request Consultant to submit copies of documents or provide other information to the City for use in its submissions to the agencies affiliated with the grant funds, in which case Consultant shall provide such copies or information to the City as fast as possible, but in no case later than ten (10) calendar days thereafter.

20. Monthly or Quarterly Review

Subject to the discretion of State, City and State shall conduct, on a monthly and/or quarterly basis, on-site reviews of all aspects of the progress of the Project. City has already agreed, during each monthly and/or quarterly progress review, to inform the State regarding:

a. Whether the Project is proceeding on schedule and within budget;

b. Any requested changes to the Project Description, Scope of Work, Project Schedule, Overall Funding Plan, or Project Financial Plan contained in documents between the two entities;

c. Major construction accomplishments during the month and/or quarter;

d. Any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties;

e. The status of the Project budget; and

f. The status of critical elements of the Project.

Monthly and/or quarterly reviews of City's progress will include consideration of whether reported implementation activities are within the scope of the Project and in compliance with State laws, regulations, and administrative requirements. Should State or City request any information for any such monthly or quarterly review, Consultant shall immediately turn over such information to the City, or if requested to go elsewhere, with a copy to the City. If any such information is or may be kept by Consultant's contractors and subcontractors, Consultant shall immediately notify all such contractors and subcontractors and ensure they immediately turn over such information to the City, or if requested to go elsewhere, with a copy to the City.

21. Financial System

Consultant, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred costs and matching funds by line item for the Services. The financial management system of Consultant, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by City or State. All accounting records and other supporting papers of Consultant, its contractors and subcontractors connected with Project performance under this Agreement shall be maintained for a minimum of three (3) years and/or bond requirements from the date of final payment to Consultant by the City, or to the City by the grants, whichever is later in time, and shall be held open to inspection, copying, and audit by representatives of State, the California State Auditor, auditors representing the federal government, the City, and auditors representing the City. Copies thereof will be furnished by Consultant, its contractors and subcontractors upon receipt of any request made by any such governmental entity or its agents. In conducting an audit of the costs and match credits claimed under this Agreement, the State, federal government or City will rely to the maximum extent possible on any prior audit of the City pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the City's external and internal auditors may be relied upon and used when planning and conducting additional audits.

22. Confidentiality of Information

Any documents and materials given to or prepared or assembled by Consultant under this Agreement shall be confidential and shall not be made available to any third person or organization by Consultant without prior written approval of the Manager.

23. Hold Harmless, Indemnity and Defense

a. Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, CTC, State, all of their legislative bodies, and all of their officials, officers, employees and agents (the **"Indemnified Party"**) from and against all liabilities regardless of nature, type or

cause to the extent that the liabilities arise out of, pertain to, or relate to the negligence, recklessness, or willful omission or misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, suits, actions, losses, allegations, damages, penalties, fines, and judgments, including but not limited to tortious, contractual, inverse condemnation or other theories or assertions of liability; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution (singularly a **"Claim"** and collectively the **"Claims"**).

b. The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney to the extent required by the paragraph above immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. An allegation or determination that persons other than Consultant (excluding City) are responsible for the liability shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party to the extent required by the paragraph above. The obligation to defend extends through final judgment, including exhaustion of any appeals. 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 the Indemnified Party.

c. For services under both sections 23a and 23b, the review, acceptance or approval of Consultant's work or work product by the Indemnified Party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This Section shall survive completion of the Services or termination of this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

24. Insurance

Consultant shall obtain and maintain during the performance of the Services the insurance coverages as specified in **Exhibit INS-A**, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-A.** Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in **Exhibit INS-A**. Maintenance of proper insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

25. Independent Contractor

a. City and Consultant agree that in the performance of the Services, Consultant shall be, and is, an independent contractor, and that Consultant and its employees are not employees of City. Consultant has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons assisting Consultant.

b. Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations.

c. Consultant acknowledges that Consultant and Consultant's 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, or health, life, dental, long-term disability and workers' compensation insurance benefits.

d. Except as Manager may specify in writing, Consultant, and its agents, employees, subcontractors and subconsultants shall have no authority, expressed or implied, to act on behalf of City in any capacity, as agents or otherwise, or to bind City to any obligation.

26. Conflict of Interest

a. 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.

b. Attached hereto as Exhibit F and incorporated herein by this reference is the Federal Lobbying Activities Certification, which Consultant shall separately sign and submit to the City immediately; this Agreement shall be of no force and effect until Consultant signs and submits the form in Exhibit F to the City.

27. Assignability of Agreement

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. Assignments of any or all rights, duties, or obligations of Consultant under this Agreement will be permitted only with the express written consent of Manager, which consent may be withheld for any reason.

28. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant and City.

29. Fair Employment Practices

a. All persons employed by Consultant shall be treated equally by Consultant without regard to or because of race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law, and in compliance with all antidiscrimination laws of the United States of America, the State of California, and City.

b. During the performance of this Agreement, Consultant and any other parties with whom Consultant may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

c. Consultant shall state in all of its solicitations or advertisements for applicants for employment that all qualified applicants shall receive consideration for employment without regard to their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

d. Consultant shall provide City staff with access to and, upon request by Manager, provide copies to Manager of all of Consultant's records pertaining or relating to Consultant's employment practices, to the extent such records are not confidential or privileged under State or federal law.

e. Consultant shall comply with: (1) section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in federally assisted programs; (2) the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability irrespective of funding; and (3) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

f. Consultant shall comply with the requirements of the Fair Employment Practices Addendum and the Nondiscrimination Assurances, which are attached hereto as Exhibits D and E, respectively, and incorporated herein by this reference. Any agreement entered into by Consultant with a third party for performance of work related to this Agreement shall incorporate these exhibits with third party's name replacing Consultant as essential parts of such agreement to be enforced by that third party as verified by Consultant.

30. Americans with Disabilities Act; Access for Persons with Disabilities

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

b. If disabled access review by the Department of General Services (Division of the State Architect) is required by law for the Project, Consultant shall conform all plans and

specifications for such facilities to the provisions of California Government Code sections 4450 and 4454 as well as Title 24 of the California Code of Regulations.

31. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended

Consultant shall comply with, ensure subcontractors comply with, and draft plans and specifications in accordance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the federal government and the Regional Office of the Environmental Protection Agency (EPA).

32. Energy Efficiency

Consultant shall comply with, ensure subcontractors comply with, and draft plans and specifications in accordance with mandatory standards and policies relating to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

33. Force Majeure

Consultant and City agree that 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 not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

34. Time of Essence

Consultant and City agree that time is of the essence in regard to performance of any of the terms and conditions of this Agreement.

35. Covenants and Conditions

Consultant and City agree that each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

36. Governing Law

City and Consultant agree that the construction and interpretation of this Agreement and the rights and duties of City and Consultant hereunder shall be governed by the laws of the State of California.

37. Compliance with Laws

a. Consultant shall comply with, and shall ensure its subcontractors and vendors

comply with, all City, State, and federal ordinances, laws, statutes, regulations (including Title 23 Code of Federal Regulation [**"CFR"**] and 2 CFR Part 200), policies and procedures (including those set forth in the California Project Development Procedures Manual, Highway Design Manual, Local Assistance Procedures Manual and the Local Assistance Program Guidelines and all procedural and instructional memoranda as well as the California Transportation Commission SB1 Accountability and Transparency Guidelines), now or hereafter in force pertaining to the Services performed by Consultant pursuant to this Agreement.

b. Consultant shall comply with, and shall ensure its subcontractors and vendors comply with, 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code [**"PCC"**] 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable State and federal regulations. Any costs for which Consultant has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable State and federal regulations, are subject to repayment by Consultant to City, even if Consultant has already expended such funds on subcontractors. Should Consultant fail to refund any moneys due upon written demand by City as provided hereunder, or should Consultant breach this Agreement by failing to complete Services without adequate justification and approval by City, then, within ten (10) calendar days of demand, or within such other period as may be agreed to in writing between the parties, City may withhold or demand a transfer of an amount equal to the amount paid by or owed to City from future apportionments, or any other funds due Consultant, and/or may withhold approval of future Consultant projects with the City.

c. Consultant is to comply with, and ensure its subconsultants and subcontractors comply with, all CTC resolutions as adopted or currently amended as well as the guidelines, and policies applicable to State- funded programs (or projects) including, but not limited to, Section 190, State Highway Account, Public Transportation Account, Proposition I8, Proposition IA, and the Road Repair and Accountability Act of 2017, respectively.

38. Debarment

Consultant certifies that neither it nor its principals are suspended or debarred at the time of the execution of this Agreement and are not listed on the government wide Excluded Parties List System in the System for Award Management (SAM). Consultant agrees that it will notify City immediately in the event a suspension or a debarment occurs after the execution of this Agreement.

39. Severability

City and Consultant agree that the invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

40. Waiver

City and Consultant agree that no waiver of a breach of any provision of this Agreement by either Consultant or City shall constitute a waiver of any other breach of the same

provision or any other provision of this Agreement. Failure of either City or Consultant to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

41. 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 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.

42. Arbitration

Consultant and City agree that in the event of any dispute with regard to the provisions of this Agreement, the Services rendered or the amount of Consultant's compensation, the dispute may be submitted to non-binding arbitration upon the mutual agreement of the parties, under such procedures as the parties may agree upon, or, if the parties cannot agree, then under the Rules of the American Arbitration Association.

43. Expenses of Enforcement

Consultant and City agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney Office) and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

44. Authority to Execute

a. City acknowledges that the person executing this Agreement has been duly authorized by the City Council to do so on behalf of City.

b. Consultant acknowledges that the person executing this Agreement has been duly authorized by Consultant to do so on behalf of Consultant.

45. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to 90 E. Thousand Oaks Blvd., Suite 201, Thousand Oaks, CA 91360-5757.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Transportation Division, 305 West Third Street, East Wing Second Floor, Oxnard, California 93030, Attention: Debbie O'Leary.

46. Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

47. Entire Agreement

City and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

CITY OF OXNARD

Tim Flynn, Mayor — Date

ATTEST

Michelle Ascencion, City Clerk (only if Mayor signs) — Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney — 10-10-19 Date

HUITT-ZOLLARS, INCORPORATED

Kevin Carter, Vice President — 10/12/2019 Date

John Anthony Sosebee, Secretary Sr. Vice President — 10/11/2019 Date

46. Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

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HUITT-ZOLLARS, INCORPORATED

Kevin Carter, Vice President — Date

John Anthony Sosebee, Secretary — Date

APPROVED AS TO FORM:

10-10-19

Stephen M. Fischer, City Attorney — Date

EXHIBIT A

SCOPE OF SERVICES

TASK 1 – PRELIMINARY INVESTIGATION AND DESIGN

Task 1.01 – Project Work Plan and Schedule

Huitt-Zollars will utilize the Project Milestone Schedule through the design phase of the project.

Huitt-Zollars will also produce a Work Plan for the kick-off meeting with City staff. The Work Plan will include the project scope, design issues, Consultant team and City Staff responsibilities, the Project Schedule, a List and Delineation of Deliverables, a Quality Assurance and Control Plan, Design Budgets and Design Criteria/Codes/Standards/Constraints. The Work Plan is not anticipated to be updated after the kick off meeting. The schedule can be updated once during the project at the City's request.

Deliverables: Project Schedule and Project Work Plan.

Task 1.02 – Project Kick-Off Meeting

Huitt–Zollars will prepare for and conduct the project kick-off meeting at the City offices. Huitt-Zollars will present the project work plan and schedule for discussion. The design team (HZ and City staff) will discuss the design parameters and site challenges. The city will provide contact information and roles for the key design decision makers. Huitt-Zollars will prepare meeting notes for distribution.

Deliverable: Meeting Notes, Project Work Plan, Project Schedule.

Task 1.03 – Field Reconnaissance

Huitt–Zollars will field review existing conditions and identify major potential issues relative to constructability, grading and drainage, safety, ADA compliance, utility conflicts and possible existing utility room and communications issues.

Deliverable: Findings incorporated into the topography and design.

Task 1.04 – Civil Research and Investigation

Huitt-Zollars will gather and map public utility information and utility company records (gas, cable, electrical, telecommunications, sewer, water and storm drain) to ensure the utility information included in the design plans is as accurate as public records allow and further identify potential challenges, conflicts and opportunities. Franchise utility letters and/or e-mail correspondence for gas, cable, electrical, and telecommunications will be sent to the City Project Manager, who will then review and send to the utility companies requesting record information for mapping. This does not include field underground investigation such as potholes, ground penetration radar and electromagnetic locating. To streamline the design time, this effort will only be undertaken for areas where excavation will occur. Huitt-Zollars will collect record drawings from the City of all existing traffic signals for modification. The record drawings will be the basis for the modification design.

Deliverable: Findings incorporated into the topography and design.

Task 1.05 – Survey Research and Design Survey

Huitt-Zollars will use the City's GIS data supplemented with the survey information from localized field surveys where hardscape improvements will be constructed. This process will have the benefit of streamlining the cost and time of survey. Huitt-Zollars will research at the City of Oxnard and Ventura County Department of Public Works survey records information to generate an alignment to be used for survey control. The Basis of Bearings for the

project will be based on recorded subdivision mapping in the area. The vertical datum (NAVD 88) will be based on the Ventura County Department of Public Works Benchmarks and Huitt-Zollars will tie into the closest vertical Benchmark.

The majority of this project has existing CAD file topography from the preliminary design, which the City will make available. Huitt-Zollars will use the City's GIS data supplemented with the survey information from localized field surveys where hardscape improvements will be constructed. This process will have the benefit of streamlining the cost and time of survey. Huitt-Zollars will research at the City of Oxnard and Ventura County Department of Public Works survey records information to generate an alignment to be used for survey control. The Basis of Bearings for the project will be based on recorded subdivision mapping in the area. The vertical datum (NAVD 88) will be based on the Ventura County Department of Public Works Benchmarks and Huitt-Zollars will tie into the closest vertical Benchmark.

A. Design Survey

Huitt-Zollars will provide partial cross-sections at 25-foot intervals for intersection improvement areas. The cross sections will extend from adjacent lane line to the Right of Way and will include shots at the top of curb, gutter flow line, edge of pavement, striping, sidewalk and any existing utilities within the street.

B. Right-of-Way Engineering

Huitt-Zollars will define a "Control Line" for Cloyne Street where improvements are planned, that will be based upon found survey monuments, together with existing and proposed improvements. This "Control Line" will then be used to confirm the existing right-of-way and to determine if right-of-way acquisition is necessary.

Deliverable: Collected Field Survey data in CAD and/or PDF format.

Task 1.06 – Develop Preliminary 30% Design Concept and Estimate

Huitt-Zollars will merge all the gathered information with the information provided by the City to develop the preliminary design concept to 30% plans. Huitt-Zollars will balance the City's standards with the MUTCD and the grant scope with the construction cost.

Deliverable: Findings incorporated into the topography and design.

TASK 2 – CONSTRUCTION DOCUMENTS

Task 2.01 – Prepare 60% Design Documents

Huitt-Zollars will incorporate comments from the 30% submittal and further develop the PS&E to 60%.

Anticipated Plan Sheet List (40 scale):

Title Sheet - 1
Typical Sections - 3
Striping Plan (double strip) - 24
Curb Extensions (6 locations) - 12
Detail Sheet - 6
Flashing Beacon - 1
Traffic Signal Modifications (18 locations) - 18
Total Sheets - 53
Deliverable: 60% Plans, Specifications & Estimate submitted to City.

Task 2.02 – Prepare 95% Design Documents

Huitt-Zollars will incorporate comments from the 60% submittal and further develop the PS&E to 95%.

Deliverable: 95% Plans, Specifications & Estimate submitted to City/Caltrans.

Task 2.03 – Prepare 100% Design Documents

Deliverable: Final Plans, Specifications and Estimate for Bidding.

Task 2.04 – Construction Authorization

Huitt-Zollars will assist the City in obtaining construction authorization from the Local Assistance Engineer at Caltrans.

Deliverable: Caltrans Construction Authorization application & 7 sets of plans.

TASK 3 – BID PERIOD SUPPORT

Task 3.01 – Project Work Plan and Schedule

Bidding phase support services are provided on an as-needed basis at the direction of the client. Huitt-Zollars is available to support the City, as requested, in completing some or all of the following tasks:

1. Responding to bidders questions

Deliverables: Responses to questions, as requested.

TASK 4 – CONSTRUCTION SUPPORT

Task 4.01 – Project Work Plan and Schedule

Huitt-Zollars will assist the City on an as-needed basis at the direction of the client during project construction. Huitt-Zollars is available to support the City, as requested, in completing some or all of the following tasks:

1. Attending Pre-Construction Meeting
2. Attending Site Construction Meetings
3. Reviewing Shop Drawings and Submittals
4. Responding to Contractor's Requests for Information
5. Providing periodic field observations during construction
6. Interacting with Material Testing Consultants
7. Preparing Record Drawings

Deliverables: Meeting minutes, responses to RFI, Field Reports, as requested.

EXHIBIT B

SCHEDULE OF SERVICES

Time is of the essence for this project due to the Caltrans Congestion Mitigation Air Quality (CMAQ) grant funding. The City intends to issue the Notice to Proceed (NTP) to the selected Consultant after City Council action in November 2019. The Consultant shall begin work as soon as the NTP is issued. City anticipates a construction bid-ready PS&E package to be completed within six (6) months of the NTP.

Consultant shall produce a delivery schedule as part of TASK 1.01 Project Work Plan and Schedule.

EXHIBIT C
COMPENSATION RATES
(see attached tables that follow)

* In any case, payments to Consultant for related travel and subsistence (per diem) expenses of Consultant forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file State employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by Consultant are in excess of DPA rates, Consultant is responsible for the cost difference, and any overpayments inadvertently paid by City shall be reimbursed to City by Consultant on demand within thirty (30) days of such invoice.

EXHIBIT INS-A

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 (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. A-8184
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

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.

10/19

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
Attn: Insurance Compliance
Reference No. A-8184
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

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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
Attn: Insurance Compliance
Reference No. A-8184
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: _____

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Agreement No. A-8184

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
Attn: Insurance Compliance
Reference No. A-8184
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 _____

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EXHIBIT D

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant and its subconsultants and subcontractors will not discriminate, harass or allow harassment against any employee or applicant for employment because of race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Consultant will take affirmative action to ensure that employees are treated during employment without regard to their race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; evaluation; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and general treatment. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by State setting forth the provisions of this Fair Employment section.

2. Consultant, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq. and 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapters 5 of Divisions 4 and 4.1 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and each of its subconsultants and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other agreements, as appropriate.

3. Consultant shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. Consultant will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, State shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by State in securing the goods or services thereunder shall be borne and paid for by Consultant and by the surety under the performance bond, if any, and State may deduct from any moneys due or thereafter may become due to Consultant, the difference between the price named in the Agreement and the actual cost thereof to State to cure Consultant's breach of this Agreement.

EXHIBIT E

NONDISCRIMINATION ASSURANCES

CONSULTANT HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the State, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C.

2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the Regulations), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Consultant receives federal financial assistance from the Federal Department of Transportation. CONSULTANT HEREBY GIVES ASSURANCE THAT CONSULTANT will promptly take any measures necessary to effectuate this Agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations.

More specifically, and without limiting the above general assurance, Consultant hereby gives the following specific assurances with respect to its federal-aid Program:

1. That Consultant agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That Consultant shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the federal-aid program and, in adapted form, in all proposals for negotiated agreements:

Consultant hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That Consultant shall insert the clauses of Appendix A of this assurance in every agreement subject to the Act and the Regulations.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where Consultant receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where Consultant receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That Consultant shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Consultant with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-

aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid program.

8. That this assurance obligates Consultant for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates Consultant or any transferee for the longer of the following periods:

(a) the period during which the property 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; or

(b) the period during which Consultant retains ownership or possession of the property.

9. That Consultant shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that Consultant, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, the Regulations, this Assurance and the Agreement.

10. That Consultant agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

11. Consultant shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any State assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. Consultant shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of State assisted contracts. Consultant's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved DBE Implementation Agreement, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 *et seq.*)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to Consultant by State, acting for the U.S. Department of Transportation, and is binding on Consultant, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

Appendices A through D are attached hereto and incorporated herein by this reference.

No. A-8184

APPENDIX A TO EXHIBIT E

During the performance of this Agreement, Consultant, for itself, its assignees and successors in interest (hereinafter collectively referred to as Consultant) agrees as follows:

(1) Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to Consultant's books, records, accounts, other sources of information, and its facilities as may be determined by State or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to State or the FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, State shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: Consultant shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any sub-agreement or procurement as State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request State enter into such litigation to protect the interests of State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO EXHIBIT E

The following clauses shall be included in any and all deeds effecting or recording the transfer of Project real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that Consultant will accept title to the lands and maintain the Project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Consultant all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit D attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Consultant and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on Consultant, its successors and assigns.

Consultant, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and)*

(2) that Consultant shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended(;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the

U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO EXHIBIT E

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by Consultant, pursuant to the provisions of Assurance 7(a) of Exhibit E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said {license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to re-enter said land and facilities thereon, and the above- described lands and facilities shall thereupon revert to and vest in and become the absolute property of Consultant and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO EXHIBIT E

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Consultant, pursuant to the provisions of Assurance 7(b) of Exhibit E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said {license, lease, permit, etc.) had never been made or issued.

{Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to re-enter said land and facilities thereon, and the above- described lands and facilities shall thereupon revert to and vest in and become the absolute property of Consultant, and its assigns.

* Reverter clause and related language to be used only when ii is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

EXHIBIT F

FEDERAL LOBBYING ACTIVITIES CERTIFICATION

1. The undersigned certifies, to the best of his or her knowledge and belief, that:

a. No federal or state appropriated funds have been paid or will be paid, by or on behalf of Consultant or the undersigned, to any person for influencing or attempting to influence an officer or employee of any State or federal agency, a member of the State Legislature or United States Congress, an officer or employee of the State Legislature or Congress, or any employee of a Member of the State Legislature or Congress in connection with the awarding of any State or federal contract, including this Agreement, the making of any State or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any State or federal contract, grant, loan, or cooperative contract.

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 federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Agreement, grant, local, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

2. The undersigned shall require that the language of this certification be included in all lower tier sub-agreements and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, United States Code. Any party 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.

Consultant:

Name: _____ Title: _____

Signature: _____ Date: _____

Name: _____ Title: _____

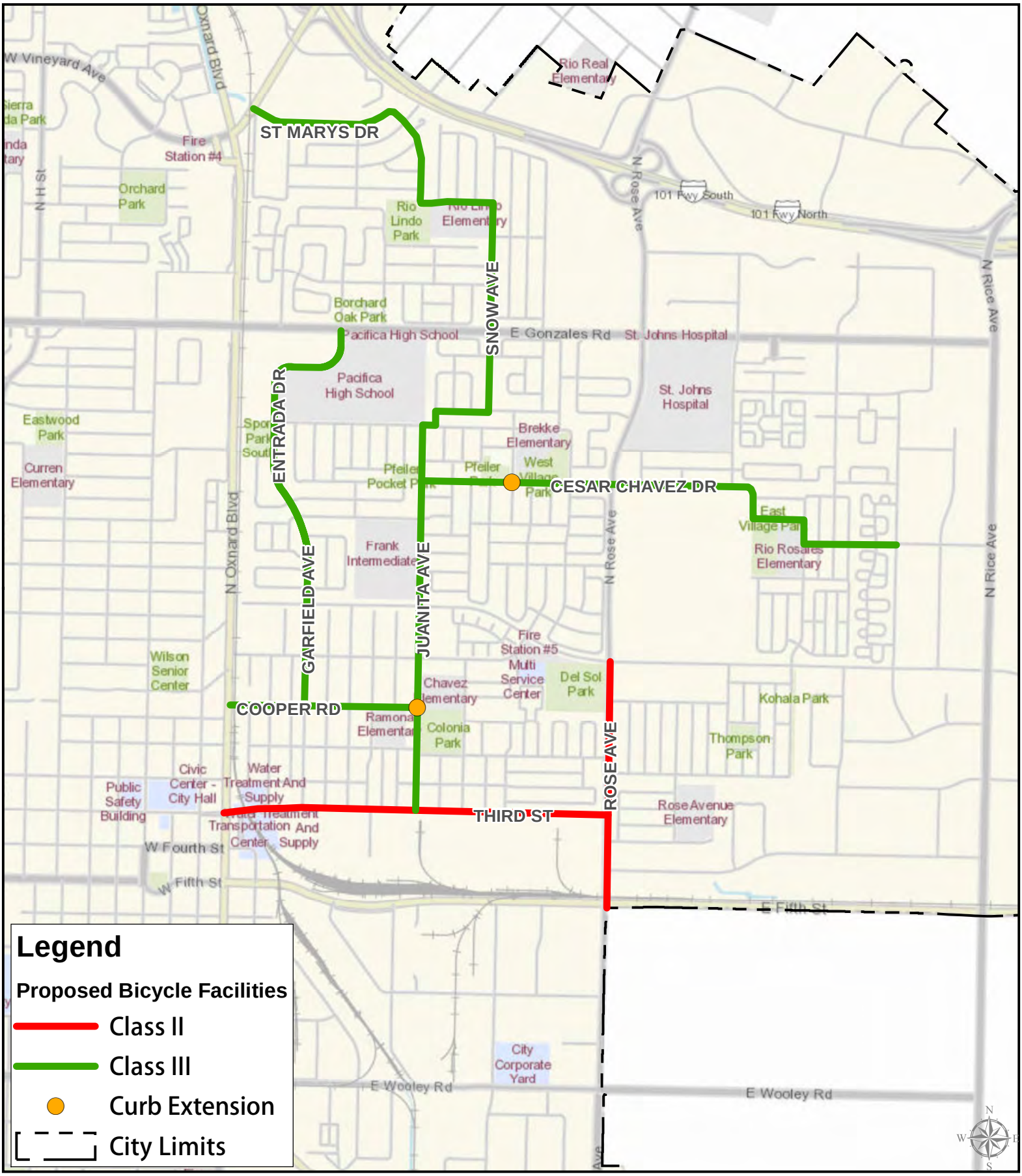
Signature: _____ Date: _____

NE COMMUNITY & CLOYNE STREET PEDESTRIAN/BICYCLE FACILITES INSTALLATION - RFP PW17-36
STAFF HOURS BY TASK
HUITT-ZOLLARS INC.
August 14, 2019

	Haslinger	Taylor	Carter		Vlassis	Speiler	Walllace		Scott	St John	Rivera	Gallegos	Bihis	Duenez	Beltran	Klein	Lenherr	Hanson					Yeh	Rincon				
Task	Princ In Charge	QA Mgr	Sr Proj Mgr	Proj Mgr	Sr Civil Engr	Sr Plnr	Sr Strl Engr	Srtl Engr	Sr L/S Arch	L/S Arch	Sr Traffic Engr	Traffic Engr	EIT	Designer	Sr CADD Tech	Sr Proj Support	Survey Mgr	Sr Proj Surveyor	Proj Surveyor	Survey Tech	Survey Crew (2)	Constn Mgr	Geotech	Environmental	Total Hours	Sub-Consultants	Reimb Expenses	TOTAL FEE
	$342	$265	$281	$185	$265	$230	$219	$199	$191	$128	$153	$112	$102	$132	$132	$96	$256	$200	$149	$132	$328	$281						
1.0 Preliminary Design - Analysis of Existing Conditions & Base Map Preparation																												
1.01 Project Work Plan and Schedule	2		8																						**10**			**$2,930**
1.02 Project Kick-Off Meeting	1		8										4												**13**		$50	**$3,047**
1.03 Field Reconnaisance			8										8												**16**		$50	**$3,114**
1.04 Survey Research and Design Survey			4										8				4	8	8	16	24				**72**			**$15,739**
1.05 Develop Preliminary 30% Design Concept (40 scale)			8		16	2					8	8	32	40											**114**			**$17,606**
1.06 Project Meetings (1 during Preliminary Phase)			4										2			1									**7**		$50	**$1,474**
1.07 Grant Reporting			6													6									**12**			**$2,262**
1.08 City Revisions to 30% Plans			4										6	6											**16**		$50	**$2,578**
1.09 QA/QC of Plans		4	4								4	4	4	4											**24**			**$4,177**
1.10 Reports and Estimates			4										8	8											**20**			**$2,996**
2.0 Construction Level Drawings - Civil Plans																												
2.01 Prepare 60% Plans, Specifications & Estimate																									**0**			**$0**
Striping			12								4	4	40	16											**76**			**$10,625**
Plan/Profile Civil (6 curb extension locations)			12		8								16	40											**76**			**$12,401**
Miscellaneous Sheets (Title, Detail, etc)			4										16	16											**36**			**$4,869**
Estimate			4										8	8											**20**			**$2,996**
2.02 Prepare 95% Plans, Specifications & Estimate																									**0**			**$0**
Striping			6								4	4	12	16											**42**			**$6,081**
Plan/Profile Civil			6		8								16	12											**42**			**$7,019**
Miscellaneous Sheets (Title, Detail, etc)			4										4	4											**12**			**$2,060**
Estimate			4										4	4											**12**			**$2,060**
Flashing Beacon Plans			4								6	18		12											**40**			**$5,643**
Traffic Signal Modification Plans (18 locations)			18								108	324	8	8											**466**			**$59,774**
2.03 Prepare 100% Plans, Specifications & Estimate	1		8								4	4	8	8											**33**			**$5,520**
2.04 Caltrans Permitting																									**0**			**$0**
2.05 Construction Authorization			4																						**4**			**$1,124**
2.06 Project Meetings (2 during Design Phase)			8										4			1									**13**		$100	**$2,851**
2.07 City Revisions to Plans			8								4	4	4	4											**24**			**$4,242**
2.08 QA/QC of Plans	2	12	2		2						2	4	4	4											**32**			**$6,640**
2.09 Project Specifications (Outline at 60%, full draft at 95%)			0		20									20		2									**42**			**$8,124**
2.10 Grant Reporting (Design Phases Only)			6													3									**9**			**$1,974**
3.0 Bid Period Support																												
3.01 Pre-Bid Meeting																									**0**			**$0**
3.02 Respond to Bidders Questions			1																						**1**			**$281**
3.03 Prepare Addenda																									**0**			**$0**
3.04 Review/Evaluate Bids																									**0**			**$0**
4.0 Construction Support																												
4.01 Pre-Construction Meeting			4																						**4**		$50	**$1,174**
4.02 Site Construction Meetings (3 @ 1/month)			6																						**6**		$150	**$1,835**
4.03 Review Shop Drawings & Submittals			8																						**8**			**$2,247**
4.04 Respond to Requests for Information			4																						**4**			**$1,124**
4.05 Review Contractor Progress payments																									**0**			**$0**
4.06 Field Observations (4 @ 2 hrs each)			8																						**8**		$0	**$2,247**
4.07 Coordianting with City & other Consultants			8																						**8**			**$2,247**
4.08 Preparing Record Drawings	1	2	4										24	16											**47**		$500	**$7,056**
TOTAL without Optional Tasks	7	18	211	0	54	2	0	0	0	0	144	374	240	246	0	13	4	8	8	16	24	0	0	0	1369			
	$2,391	$4,763	$59,266	$0	$14,289	$460	$0	$0	$0	$0	$21,960	$41,989	$24,499	$32,472	$0	$1,249	$1,025	$1,601	$1,192	$2,112	$7,870	$0	$0	$0	$217,137	**$0**	**$1,000**	**$218,137**
TOTAL ESTIMATED FEE (ALL TASKS)																										$ -	$ 1,000	$ 218,137

G:\Marketing\4-Public\Ventura County-Cities\City of Oxnard\2019 RFP PW 17-36 NE Comm Bike-Ped (due 8-14-2019)\[Huitt-Zollars NE Comm 10H1 (Neg 8-30-2019).xlsx]10-h1

BICYCLE & PEDESTRIAN FACILITIES (PW17-36): EXHIBIT 14 - NORTHEAST COMMUNITY PROJECT LOCATION

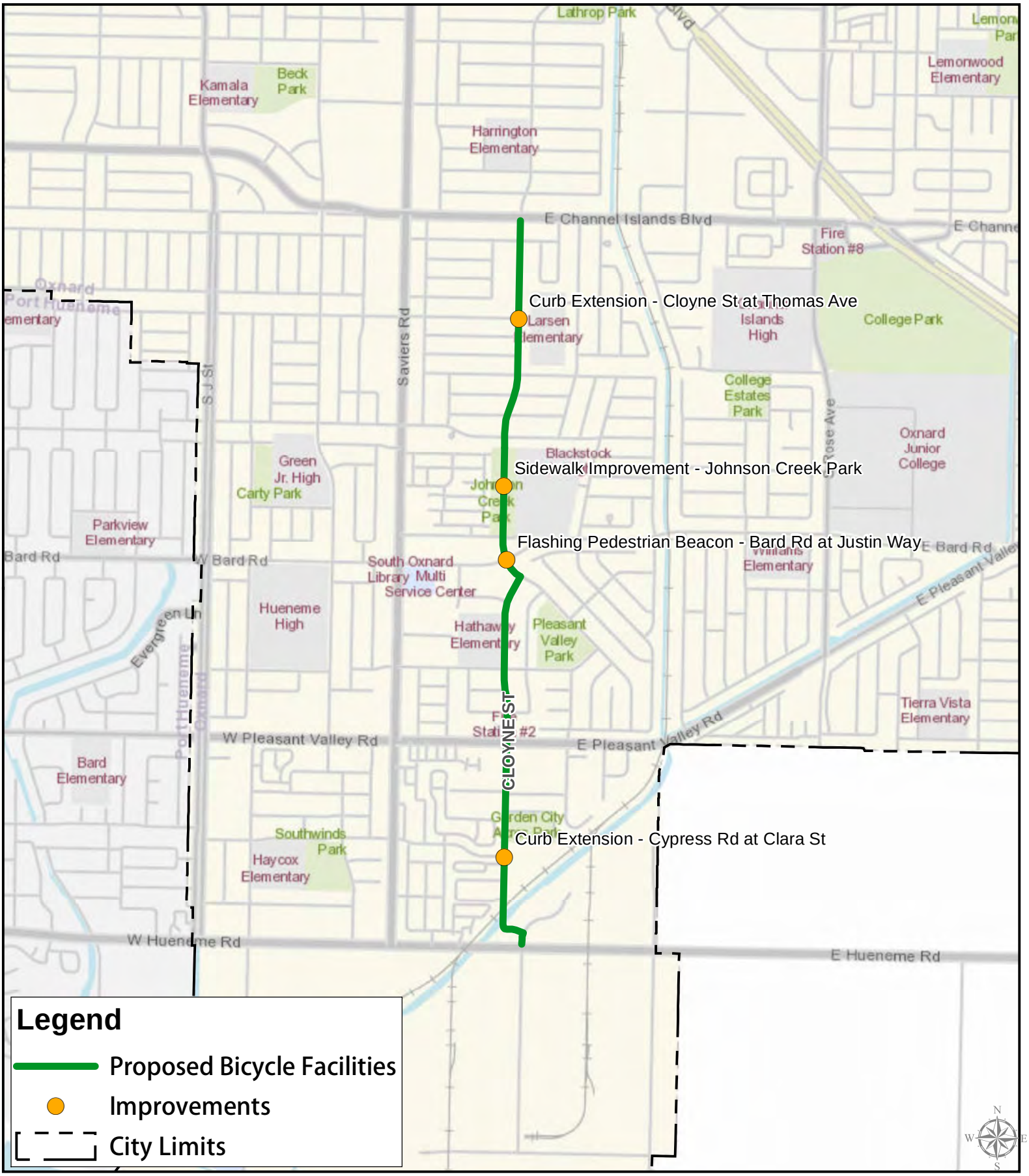


Created by:
CITY OF OXNARD
Geographic Information Systems Division
July 2019

This map is compiled by the City of Oxnard GIS Division, which is developed and operated solely for the convenience of the City. The City does not make any representations or warranties regarding the use, accuracy, reliability, and/or completeness of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.

Data Source:
City of Oxnard GIS Division
County of Ventura GIS Program

BICYCLE & PEDESTRIAN FACILITIES (PW17-36): CLOYNE STREET PROJECT LOCATION



Created by:
CITY OF OXNARD
Geographic Information Systems Division
July 2019

940 0 940 1,880 Feet

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Data Source:
City of Oxnard GIS Division
County of Ventura GIS Program

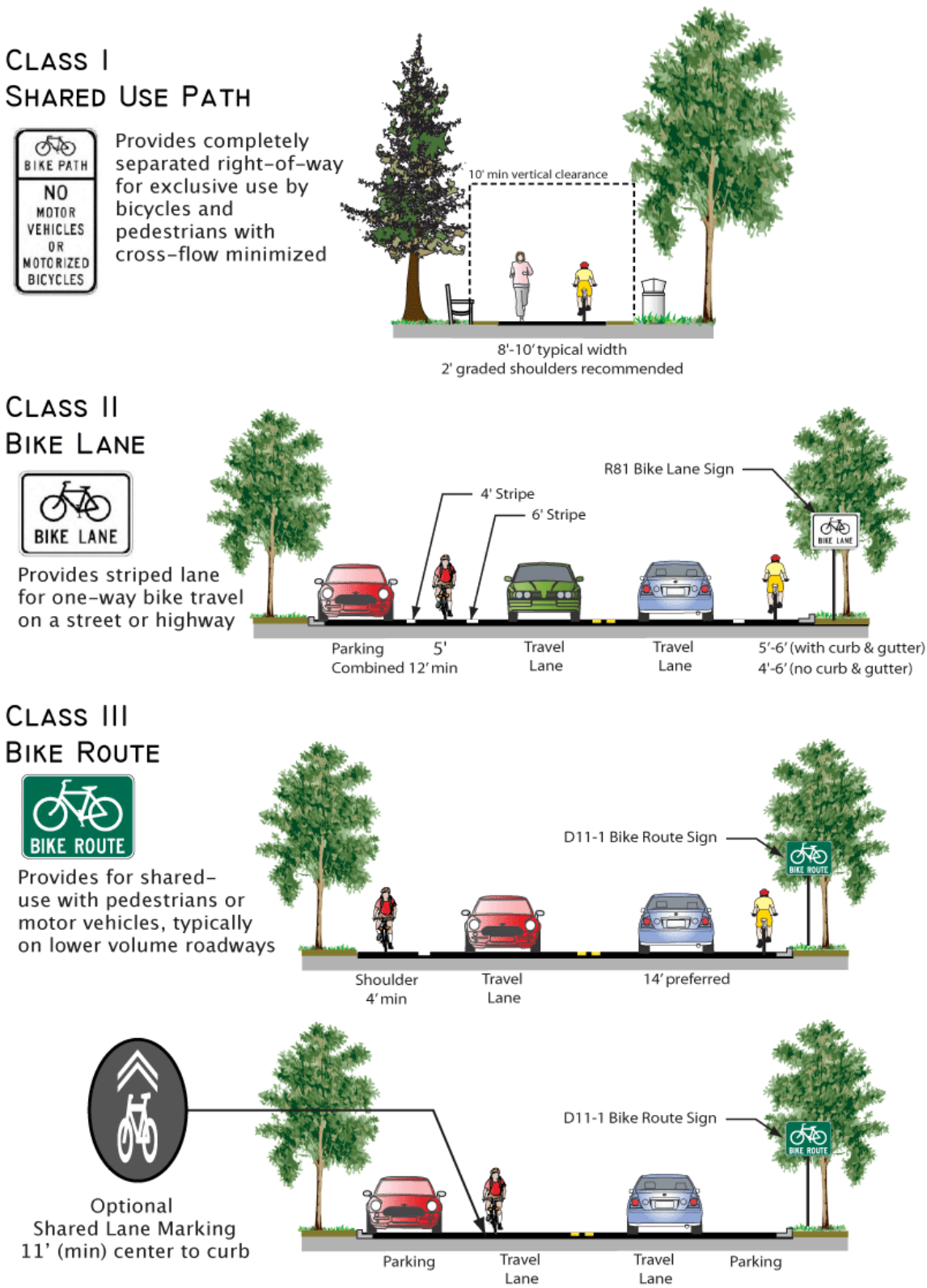

Figure 3-4: Caltrans Bikeway Classifications

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.8.

DATE: December 3, 2019

TO: City Council

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Approval of Purchase Order with Gibbs Truck Centers for Two (2) Semi-Tractors.

RECOMMENDATION

That City Council approve and authorize the Mayor to execute a Purchase Order with Gibbs Truck Centers in an amount not-to-exceed $209,048.46 for two (2) semi-tractors. (Public Works and Transportation Committee approved 3-0)

BACKGROUND

Semi-tractors are used six days per week to transfer material from the Del Norte Facility to contracted landfills and processors. Each semi-tractor pulling a trailer hauls an average of 21 tons per trip to the landfill or processing facility. This class of vehicle is a key asset to the daily operations of the Environmental Resources Division.

DISCUSSION

On June 25, 2019, the City solicited a competitive Request for Bid, #ER19-17R, for two (2) semi-tractors. The bid document was posted on the City's website and PublicPurchase.com. Thirty-one (31) vendors received the bid notification via the Public Purchase website and three (3) vendors responded with bids by the July 15, 2019 deadline.

On August 1, 2019, the City issued a Request for Clarification (RFC) to vendors that submitted bids to confirm the semi-tractor they were proposing included a “Look-Down Pass Door Black 11x6” per the bid specifications. Each vendor confirmed this specification prior to the RFC deadline of August 8, 2019. Among the three bids received, Gibbs Truck Centers submitted the lowest responsive bid. Bids are listed below:

Gibbs Truck Centers $209,048.46.
Velocity Truck Center $260,752.26
Inland Kenworth $296,321.58.

The new semi-tractors will replace semi-tractors that have exceeded their serviceable life. The current Environmental Resources tractor fleet has an average age of seventeen (17) years in service, with an average of 550,000 miles. The industry standard life of a semi-tractor is seven (7) years. This purchase continues to modernize the transfer fleet; increasing operating efficiencies, minimizing down time and unnecessary maintenance expense.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is sufficient funding in Environmental Resources Fleet Replacement Fund / Project No. 187417 (Account Number 742-7943-826-8607) to cover the purchase of the two (2) semi-tractors.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on October 8, 2019, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Thien Ng, Assistant Public Works Director

ATTACHMENTS

1. PO 7443 Gibbs International for Semi Tractors
2. Gibbs Cost Sheet
3. Velocity Cost Sheet
4. Inland Kenworth cost sheet
5. Bid Documents for Semi Tractors

CITY OF OXNARD CALIFORNIA

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

PURCHASE ORDER NO. 007443

DATE: 10/8/2019

VENDOR PHONE: (805)485-0551
VENDOR FAX: ( ) -
VENDOR #: 2030
VENDOR ADDRESS: GIBBS INTERNATIONAL TRUCKS INC
P.O. BOX 748062
LOS ANGELES, CA 90074-8062

SHIP TO: FLEET SERVICES
1060 PACIFIC AVE, BLDG 1
OXNARD, CA 93030

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

DELIVER BY	REQUISITION #	REQUISITION DATE	CONFIRMED BY
10/16/2019	0000004659	09/16/2019	JON RODARMES
FOB	**ACCOUNT NUMBER**		**AUTHORIZED BY**
	74279438268606		PATRICIA GARCIA

ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE	UNIT COST	EXTENDED COST
1	193,980.00 / DL	TWO SEMI TRACTORS - NON-SLEEPER W/REAR AXLE	1.0000	193,980.00
2	15,033.45 / DL	CA SALES TAX	1.0000	15,033.45
3	35.00 / DL	CA TIRE RECYCLING FEE	1.0000	35.00

RFB #ER19-17R

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

PURCHASE ORDER NO. 007443

DATE: 10/8/2019

VENDOR PHONE: (805)485-0551
VENDOR FAX: ( ) -
VENDOR #: 2030
VENDOR ADDRESS: GIBBS INTERNATIONAL TRUCKS INC
P.O. BOX 748062
LOS ANGELES, CA 90074-8062

SHIP TO: FLEET SERVICES
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OXNARD, CA 93030

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DELIVER BY	REQUISITION #	REQUISITION DATE	CONFIRMED BY
10/16/2019	0000004659	09/16/2019	JON RODARMES
FOB	**ACCOUNT NUMBER**		**AUTHORIZED BY**
	74279438268606		PATRICIA GARCIA

ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE	UNIT COST	EXTENDED COST

TOTAL PURCHASE AMOUNT **$209,048.45**

In order to receive payment, email all invoices to:
invoices@oxnard.org

In the subject line, reference the Purchase Order number above.

AUTHORIZED SIGNATURE. _____

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDERS
TERMS AND CONDITIONS

The City Purchasing Officer and the Vendor agree as follows:

1. Vendor shall furnish to City the labor, materials, equipment, supplies and/or services described in the Purchase Order preceding this page.
2. City shall pay to Vendor the price, or prices, specified in the Purchase Order upon delivery of the labor, materials, equipment, snpplies and/or services, and acceptance thereof by the City Purchasing Officer, or upon the completion of the services to be performed and acceptance thereof.
3. If the Purchase Order is continuing in nature, City shall pay to Vendor the amount due Vendor for labor, materials, eqnipment or supplies furnished, or services completed and accepted.
4. Vendor shall deliver the labor, materials, equipment or supplies, or cause the services to be performed, within the time and in the manner specified in the Purchase Order. Vendor shall be excused in performance for delays resulting from causes beyond the control of Vendor.
5. If services are performed or labor furnished to City nnder the Purchase Order, Vendor agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Vendor or its agents, employees, subcontractors, consnltants and other persons acting on Vendor's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf would be held strictly liable. Vendor'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 Vendor is obligated to indemnify and hold harmless.
6. Insurance
   a) Vendor shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the reqnirement that Vendor obtain and maintain such insurance coverage.
      i. Commercial general liability insurance, including a contractual liability endorsement, 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 eqnivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);
      ii. 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 Auto Liability Insurance Services Office coverage (Occurrence Form CA000TED, June 1992) covering Code No. 1, "any auto";
      iii. Workers' compensation insurance in compliance with the laws of the State of California, including employer's liability insurance in an amount not less than $1,000,000 per claimant.
7. Vendor, in the performance of any services or the furnishing of any labor nnder this Purchase Order, shall be considered an independent contractor, and Vendor and Vendor's agents and employees shall not be considered officers or employees of the City.
8. Vendor, without the written consent of the City Purchasing Officer, shall not:
   a) Assign the Purchase Order, or any interest therein, or any money due thereunder; or
   b) Make any changes, alterations or variations in the terms of the Purchase Order.
9. The cost of inspection on deliveries, or offers to make deliveries that do not meet specifications, will be paid by Vendor or deducted by City from amounts dne Vendor.
10. Vendor shall indemnify and hold harmless City, its officers and employees, from liability, claims, loss or expense of any kind or nature on account of any copyrighted or uncopyrighted composition, patented or unpatented process or invention, article or appliance furnished or used under this Purchase Order.
11. Vendor shall comply with all applicable federal, state and local ordinance, laws and regulations and shall obtain and pay for all required licenses and permits, including a City of Oxnard business license.
12. Return or exchange of materials, equipment or supplies will not be permitted without written approval by the City Purchasing Officer.
13. All materials, supplies and equipment furnished under the Purchase Order shall, where applicable, be in full compliance with the Safety Orders and Regulations of the Division of Industrial Safety of the State of California and the Williams-Steiger Federal Occupational Health and Safety Act of 1970.
14. City may terminate this Purchase Order at any time by giving written notice of termination to Vendor. If termination is for cause, termination shall become effective on the date of the notice or at a later date, specified in the notice. If termination is without cause, termination shall become effective five days after the date of the notice or at a later date specified in the notice.
15. Vendor shall comply with all applicable equal employment opportunity requirements of the California Department of Fair Employment and Honsing in performing or contracting for any services under this Purchase Order.
16. For public projects, Vendor shall pay prevailing wages in accordance with Labor Code Sections 1720 et seq.

ADDITIONAL REQUIREMENTS FOR GRANT-FUNDED PROJECTS

17. The following requirements apply to any Pnrchase Order funded in whole or in part by federal grant funds.
    a) Upon expiration of the time specified on the reverse side, this Purchase Order shall terminate unless City and Vendor have mutually agreed in writing to an extension of time.
    b) If legal action is brought by either party because the other has failed to comply with terms or conditions of this Purchase Order, the prevailing party shall be awarded its attorney's fees and costs in addition to its damages and/or equitable relief.
    c) Vendor shall comply with all applicable requirements of Executive Order 11246 as amended by Executive Order 11375 and the regulations adopted pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin.
    d) Vendor shall insure that the grantee (City), the Federal Grantor Agency, the Comptroller General of the United States, or any duly authorized representative, shall have access to any books, records, documents and papers, specifically relating to this Purchase Order, for the purpose of making audit, examination, excerpts and transcriptions for not less than three years after completion of the project and/or until the completion of the final project audit as required by the Federal Grants Agency.

ATTACHMENT A

BID DOCUMENTS FOR SEMI-TRACTORS

Item #	Quantity	Description	Unit Cost	Item Total
2	2	Tractor - Non-Sleeper W/Rear Axle Capacity Less Than 59000 Lbs	$ 96,990.00	$ 193,980.00
		SUBTOTAL		$
3	2	7.75% CA Sales Tax	$7516.73	$ 15,033.45
4	2	CA Tire Recycling Fee	$17.50	$ 35.00
		Other Costs (List):	0	$ 0
		GRAND TOTAL		$209,048.45

The grand total is subject to verification. If any discrepancy is found, the sum of the item totals will govern.

The following addenda are acknowledged: (Enter # & date or "None" if appropriate)

No.	Date	No.	Date
1	7/8/19		

( ) Check here if "NO Bid". Return this form to remain active in Vendor File.

( ) Check here if your bid will be extended to other public agencies. Your response will in no way affect consideration of your bid.

The undersigned agrees to provide the above items and/or services to the City of Oxnard at the price quoted hereon, hold the price firm for 60 days after the designated date to receive bids, and provide the above items and/or services upon receipt of a City of Oxnard purchase order.

Bidder's Signature John Limoli Date 7/15/19

Printed Name & Title JOHN LIMOLI - TRUCK SALES MANAGER

Business Name GIBBS TRUCK CENTERS

Business Address 2201 E. VENTURA AVE
OXNARD, CA 93030

Telephone No. 805-485-0551 Email jlimoli@gibbstrucks.com

Ed Gibbs

Telephone No. (805) 485-0551 Email edgibbs@gibbstrucks.com

Federal Taxpayer Identification No. 95-2644434

ATTACHMENT B

CITY OF OXNARD
SIGNATURE SHEET, AFFIDAVIT

I, ED GIBBS

depose and say that I am PRESIDENT
("Sole Owner", "A Partner", "President", or other proper title)

of GIBBS INTERNATIONAL TRUCK CENTERS
Name of Bidder

Whoever submits this proposal to the City of Oxnard declares:

1. That the bidder has read these bid documents and specifications, will abide by and agrees to the conditions herein, and does hereby propose to furnish all equipment required for the item totals listed in the Bid Proposal.

2. That this bid is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named, and that the bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure an advantage over any other bidder.

3. That the addenda indicated on page 1 of this proposal are acknowledged.

I certify or declare under penalty of perjury that the foregoing is true and correct and I am an authorized agent to submit bids.

Ed Gibbs
Signature

7/15/19
Date

City of Oxnard
Purchasing Department

Solicitation ER19-17R2
Bid Close Date: 07/11/19

Year, Make & Model Offered: 2020 INTERNATIONAL HX 620 CONVENTIONAL TRACTOR

Estimated Delivery Date ARO (F.O.B. Destination): 90 - 160 DAYS

Note exceptions to above specifications: NONE

ATTACHMENT A

BID DOCUMENTS
FOR
SEMI-TRACTORS

Item #	Quantity	Description	Unit Cost	Total
	2	Tractor - Non-Sleeper W/Rear Axle Capacity Less Than 59000 Lbs	$ 120,950.00	$ 241,900.00
		SUBTOTAL		$ 241,900.00
		7.75% CA Sales Tax		$ 18,758.10
		CA Tire Recycling Fee		$ 35.00
		Other Costs (List):		$70
		GRAND TOTAL		$ 260,763.10

The grand total is subject to verification. If any discrepancy is found, the sum of the item totals will govern.

The following addenda are acknowledged: (Enter # & date or "None" if appropriate)

No.	Date	No.	Date
7/9/19	Bid Extended		

(X) Check here if "NO Bid". Return this form to remain active in Vendor File.
( ) Check here if your bid will be extended to other public agencies. Your response will in no way affect consideration of your bid.

The undersigned agrees to provide the above items and/or services to the City of Oxnard at the price quoted hereon, hold the price firm for 60 days after the designated date to receive bids, and provide the above items and/or services upon receipt of a City of Oxnard purchase order.

Bidder's Signature Edd Aguilar Date July 15, 2019
Printed Name & Title New Truck Sales Rep
Business Name Velocity Truck Center
Business Address 2510 Camino Del Sol

Public | Purchase™

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Bid RFB #PW 19-17R2 - RFB for Semi-Tractors

Bid Type	**RFB**
Bid Number	**PW 19-17R2**
Title	**RFB for Semi-Tractors**
Start Date	**Jun 25, 2019 1:38:52 PM PDT**
End Date	**Jul 15, 2019 2:00:00 PM PDT**
Agency	**City of Oxnard**
Bid Contact	**Will Gale** (805) 385-7553 william.gale@oxnard.org 300 W. Third St., Suite 202 Oxnard, CA 93030

Questions
4 Questions
4 New Questions, and
5 New Answers
[View/Ask Questions]

Respond
You will be asked to register with the agency before responding. This process takes only a couple of minutes.
[Respond to bid]
[Indicate NO Response to bid]

1. Addendum
Extended the bid close date to 7/15/19.
Jul 9, 2019 10:02:39 AM PDT
[Track Changes]

Description

The City of Oxnard is requesting bids from qualified vendors to provide two semi-tractors for the Fleet/ER Division.

Documents

Name	Acceptance Required	Acceptance Status	
	Yes	[Must Accept]	[Download]
	Yes	[Must Accept]	[Download]
	No		[Download]
	No		[Download]
	No		[Download]

Respond

Customer Support: vendorsupport@publicpurchase.com | Copyright 1999-2019 © | The Public Group, LLC. All rights reserved.

The Public | Group™

Oxnard, CA 93030

Telephone No. 1-805-983-2408 Email eaguilar@vvgtruck.com

Federal Taxpayer Identification No. 94-3303320

ATTACHMENT B

CITY OF OXNARD
SIGNATURE SHEET, AFFIDAVIT

I, Edmundo (Edd)

depose and say that I am New Truck Sales Rep
("Sole Owner", "A Partner", "President", or other proper title)

of Velocity Truck Center Ventura County
Name of Bidder

Whoever submits this proposal to the City of Oxnard declares:

1. That the bidder has read these bid documents and specifications, will abide by and agrees to the conditions herein, and does hereby propose to furnish all equipment required for the item totals listed in the Bid Proposal.

2. That this bid is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named, and that the bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure an advantage over any other bidder.

3. That the addenda indicated on page 1 of this proposal are acknowledged.

I certify or declare under penalty of perjury that the foregoing is true and correct and I am an authorized agent to submit bids.

Signature

July 15,2019
Date

Year, Make & Model Offered: 2021 Western Star 4900

Estimated Delivery Date ARO (F.O.B. Destination): 250 to 334 Days from P.O.

Note exceptions to above specifications: Please review attached chassis specs sheets for full details

VELOCITY TRUCK CENTERS

OFFICE (805) 983-2408
FAX (805) 983-7570

2501 Camino Del Sol, Oxnard CA 93030

www.VelocityTruckCenters.com

Buyers Order

ITEM #K-8

Deal#: DE-63883
Opp#: 2019-112882
Date: 07/15/2019

Contact: Edd Aguilar - Mobile: 805-338-2866 - Email: eaguilar@vvgtruck.com

Bill To: PROS-024430
CITY OF OXNARD
300 West Third St
Oxnard CA 93030 County: Ventura
Phone: (805) 385-7553
william.gale@oxnard.org

Ship To:

Unit#: 19-17R **Stock#:**
VIN: RFB#PW 19-17R2
To Be Delivered On or About: 7/31/2020

2021 WESTERN STAR 4900SB
GVW: 80000
Color: Wht

Price:	**$120,950.00**
Unit Price:	**$120,950.00**
Sub Total	**$120,950.00**
Doc Fee	$70.00
CA Tire Recycle Fee	$17.50
Sales Tax (7.750%)	$9,379.05
License/Title	$35.00
Total Vehicle Sale Price	**$130,451.55**
Net Total	**$130,451.55**

FET (Each): $260.62 - Tire Credit (Each): $260.62

Lienholder: None

Per Unit Price

ONLY THOSE ITEMS AND SERVICES SPECIFICALLY WRITTEN ON THIS ORDER ARE INCLUDED IN THE STATED PRICE.
ANY OTHER AGREEMENTS, UNLESS IN WRITING, ARE NOT BINDING ON SELLER.

The numbered pages of this Order comprise the entire agreement affecting this purchase and no other agreement or understanding of any nature concerning this purchase has been made or entered into, or will be recognized. I hereby certify that no credit has been extended to me for the purchase of this motor vehicle except as appears in writing on the face of this agreement. I have read and understand the final page of this agreement and agree to it as a part of this order the same as if it were printed above my signature. I certify that I am of legal age, or older, that I have legal capacity and authority to execute this agreement on behalf of my company, and hereby acknowledge receipt of a copy of this order.

CITY OF OXNARD
(Purchaser's Name)

Edd Aguilar
(Salesperson Name)

X
(Purchaser's Signature)

(Approved By)

Date

7/15/19
Date

Jul 15 2019 12:43PM

This order is not valid unless signed and accepted by dealer

VELOCITY TRUCK CENTERS

OFFICE (805) 983-2408
FAX (805) 983-7570
2501 Camino Del Sol, Oxnard CA 93030
www.VelocityTruckCenters.com

Buyers Order

ITEM #K-8
Deal#: DE-63883
Opp#: 2019-112882
Date: 07/15/2019

Contact: Edd Aguilar - Mobile: 805-338-2866 - Email: eaguilar@vvgtruck.com

Bill To: PROS-024430
CITY OF OXNARD
300 West Third St
Oxnard CA 93030 County: Ventura
Phone: (805) 385-7553
william.gale@oxnard.org

Ship To:

Unit#: 19-17R **Stock#:** **2021 WESTERN STAR 4900SB** **Price:** **$120,950.00**
VIN: RFB#PW 19-17R2 GVW: 80000 Color: Wht
To Be Delivered On or About: 7/31/2020 **Unit Price:** **$120,950.00**

Sub Total	**$120,950.00**
Doc Fee	$70.00
CA Tire Recycle Fee	$17.50
FET (Each): $260.62 - Tire Credit (Each): $260.62	
Sales Tax (7.750%)	$9,379.05
License/Title	$35.00
Total Vehicle Sale Price	**$130,451.55**
Net Total	**$130,451.55**

Lienholder: None

Per Unit Price

ONLY THOSE ITEMS AND SERVICES SPECIFICALLY WRITTEN ON THIS ORDER ARE INCLUDED IN THE STATED PRICE.
ANY OTHER AGREEMENTS, UNLESS IN WRITING, ARE NOT BINDING ON SELLER.
The numbered pages of this Order comprise the entire agreement affecting this purchase and no other agreement or understanding of any nature concerning this purchase has been made or entered into, or will be recognized. I hereby certify that no credit has been extended to me for the purchase of this motor vehicle except as appears in writing on the face of this agreement. I have read and understand the final page of this agreement and agree to it as a part of this order the same as if it were printed above my signature. I certify that I am of legal age, or older, that I have legal capacity and authority to execute this agreement on behalf of my company, and hereby acknowledge receipt of a copy of this order.

CITY OF OXNARD
(Purchaser's Name)

Edd Aguilar
(Salesperson Name)

X
(Purchaser's Signature)

(Approved By)

Date

7/15/19
Date

This order is not valid unless signed and accepted by dealer

ATTACHMENT A

BID DOCUMENTS
FOR
SEMI-TRACTORS

Item #	Quantity	Description	Unit Cost	Total
	2	Tractor - Non-Sleeper W/Rear Axle Capacity Less Than 59000 Lbs	$ 121,694	$ 243,388.
		SUBTOTAL		$243,388.
		7.75% CA Sales Tax		$18,874.98
		CA Tire Recycling Fee		$ 35.00
		Other Costs (List): DOCUMENTATION		$ 160—
		FEDERAL EXCISE TAX		27,298.
		ADMINISTRATION		440—
		LICENSE & TITLE		6,138—
		GRAND TOTAL		$296,333.98

The grand total is subject to verification. If any discrepancy is found, the sum of the item totals will govern.

The following addenda are acknowledged: (Enter # & date or "None" if appropriate)

No.	Date	No.	Date

( ) Check here if "NO Bid". Return this form to remain active in Vendor File.
( ) Check here if your bid will be extended to other public agencies. Your response will in no way affect consideration of your bid.

The undersigned agrees to provide the above items and/or services to the City of Oxnard at the price quoted hereon, hold the price firm for 60 days after the designated date to receive bids, and provide the above items and/or services upon receipt of a City of Oxnard purchase order.

Bidder's Signature Ron Brooks Date 7/10/19

Printed Name & Title RON BROOKS / ACCOUNT MANAGER

Business Name INLAND KENWORTH

Business Address 9730 CHERRY AVE. FONTANA, CA 92335

Telephone No. 909-241-8773 Email RONBROOKS@INLAND-GROUP.COM

Federal Taxpayer Identification No. 85-0471900

ATTACHMENT B

CITY OF OXNARD
SIGNATURE SHEET, AFFIDAVIT

I, RON BROOKS

depose and say that I am ACCOUNT MANAGER
("Sole Owner", "A Partner", "President", or other proper title)

of INLAND KENWORTH
Name of Bidder

Whoever submits this proposal to the City of Oxnard declares:

1. That the bidder has read these bid documents and specifications, will abide by and agrees to the conditions herein, and does hereby propose to furnish all equipment required for the item totals listed in the Bid Proposal.

2. That this bid is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named, and that the bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure an advantage over any other bidder.

3. That the addenda indicated on page 1 of this proposal are acknowledged.

I certify or declare under penalty of perjury that the foregoing is true and correct and I am an authorized agent to submit bids.

Signature

7/10/19
Date

Year, Make & Model Offered: 2020 KENWORTH T880

Estimated Delivery Date ARO (F.O.B. Destination): DEC. 2019 (OXNARD)

Note exceptions to above specifications:

INLAND

BUYERS ORDER & PURCHASE AGREEMENT

INLAND KENWORTH (US) INC.
9730 Cherry Avenue
Fontana, California 92335
Phone : (909) 823-9955 Fax: (909) 823-2698

DATE:	7/10/2019	**BUYER'S NAME:**	City of Oxnard
ADDRESS:	300 West Third Street	**PHONE:**	
CITY:	Oxnard	**STATE:**	Ca.
ZIP:	93030		

QUANTITY:	2	**NEW:**	New	**COLOR:**	White	**DESCRIPTION:**
YEAR:	2020	**MAKE:**	Kenworth	**MODEL:**	T880	DC
SERIAL # (s):	, NEW					
STOCK # (s):	, NEW					

ADDITIONAL PROVISIONS:

F.O.B. City of Oxnard

SALESPERSON: Ron Brooks

Price / Unit	Qty	Purchase Total
$121,694.00	2	$243,388.00
FET		$27,298.00
Documentation		$160.00
Sales Tax		$18,874.98
Ext. Warranty		$0.00
Administration		$440.00
License & Title		$6,138.00
Tire Disposal Fee		$35.00
Out of State Delivery		$0.00
Total		**$296,333.98**
Cash Deposit		$0.00
Trade Equity		$0.00
Amount Financed		$0.00
Cash on Delivery		$296,333.98

BUYER HEREBY SUBMITS THE ABOVE ORDER WHICH SHALL CONSTITUTE BUYER'S OFFER TO PURCHASE THE VEHICLE(S), CHASSIS OR ACCESSORY (IES) (INDIVIDUALLY AND TOGETHER , THE "VEHICLE") AS IDENTIFIED ABOVE FOR THE PURCHASE PRICE AND ON THE TERMS AND CONDITIONS SET FORTH IN THE ABOVE ORDER AND THIS AGREEMENT (TOGETHER, THE "AGREEMENT"), WHICH INCLUDES THE ABOVE ORDER AND THE ADDITIONAL TERMS AND CONDITIONS, WHICH BUYER REPRESENTS IT HAS REVIEWED AND UNDERSTANDS.

AGREED BY PURCHASER

Signature _____ Title _____ Date _____

SELLER HEREBY ACCEPTS BUYER'S OFFER AND AGREES TO SELL TO BUYER THE IDENTIFIED VEHICLE ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT.

ACCEPTED BY SELLER

Signature _____ Title _____ Date _____

THANK YOU FOR YOUR BUSINESS!

PO 7443

Req

EPO Number:	4659
Vendor Number	2030
Approved by	WB

742-7943-826-8601
Prj 181417

ATTACHMENT A

BID DOCUMENTS FOR SEMI-TRACTORS

Item #	Quantity	Description	Unit Cost	Item Total
2	2	Tractor - Non-Sleeper W/Rear Axle Capacity Less Than 59000 Lbs	$ 96,990.00	$ 193,980.00
		SUBTOTAL		$
3	2	7.75% CA Sales Tax	$7516.73	$ 15,033.45
4	2	CA Tire Recycling Fee	$17.50	$ 35.00
		Other Costs (List):	0	$ 0
		GRAND TOTAL		$209,048.45

The grand total is subject to verification. If any discrepancy is found, the sum of the item totals will govern.

The following addenda are acknowledged: (Enter # & date or "None" if appropriate)

No.	Date	No.	Date
1	7/8/19		

( ) Check here if "NO Bid". Return this form to remain active in Vendor File.
( ) Check here if your bid will be extended to other public agencies. Your response will in no way affect consideration of your bid.

The undersigned agrees to provide the above items and/or services to the City of Oxnard at the price quoted hereon, hold the price firm for 60 days after the designated date to receive bids, and provide the above items and/or services upon receipt of a City of Oxnard purchase order.

Bidder's Signature John Limoli Date 7/15/19

Printed Name & Title JOHN LIMOLI - TRUCK SALES MANAGER

Business Name GIBBS TRUCK CENTERS

Business Address 2201 E. VENTURA AVE
OXNARD, CA 93030

Telephone No. 805-485-0551 Email jlimoli@gibbstrucks.com

City of Oxnard
Purchasing Department

Solicitation ER19-17R2
Bid Close Date: 07/11/19

Ed Gibbs

Telephone No. (805) 485-0551 Email edgibbs@gibbstrucks.com

Federal Taxpayer Identification No. 95-2644434

ATTACHMENT B

CITY OF OXNARD
SIGNATURE SHEET, AFFIDAVIT

I, ED GIBBS

depose and say that I am PRESIDENT
("Sole Owner", "A Partner", "President", or other proper title)

of GIBBS INTERNATIONAL TRUCK CENTERS
Name of Bidder

Whoever submits this proposal to the City of Oxnard declares:

1. That the bidder has read these bid documents and specifications, will abide by and agrees to the conditions herein, and does hereby propose to furnish all equipment required for the item totals listed in the Bid Proposal.

2. That this bid is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named, and that the bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure an advantage over any other bidder.

3. That the addenda indicated on page 1 of this proposal are acknowledged.

I certify or declare under penalty of perjury that the foregoing is true and correct and I am an authorized agent to submit bids.

Ed Gibbs
Signature

7/15/19
Date

City of Oxnard
Purchasing Department

Solicitation ER19-17R2
Bid Close Date: 07/11/19

Year, Make & Model Offered: 2020 INTERNATIONAL HX 620 CONVENTIONAL TRACTOR

Estimated Delivery Date ARO (F.O.B. Destination): 90 - 160 DAYS

Note exceptions to above specifications: NONE

CITY OF OXNARD CALIFORNIA	CITY COUNCIL AGENDA REPORT	TYPE OF ITEM: Info/Consent AGENDA ITEM NO.: _____

DATE: September ___, 2019

TO: City Council

FROM: Rosemarie Gaglione
Public Works Director

SUBJECT: Purchase Order No. ____ with Gibbs Truck Centers for Two (2) Semi-Tractors

CONTACT: Rosemarie Gaglione, Public Works Director
Rosemarie.gaglione@oxnard.org, (805) 385-8055

RECOMMENDATION

That City Council approve and authorize the Mayor to execute Purchase Order No. ____ with Gibbs Truck Centers in an amount not-to-exceed $209,048.46 for two (2) semi-tractors for the transport of material from the Del Norte Facility to contracted landfills and processors.

BACKGROUND

Semi-tractors pull "walking floor" trailers and are used six days per week to transfer material from the Del Norte Facility to contracted landfills and processors. Each semi-tractor pulling a trailer hauls an average of 21 tons per trip to the landfill or processing facility. This class of vehicle is a key asset to the daily operations of the Environmental Resources Division.

On June 25, 2019, the City solicited a competitive Request for Bid, #ER19-17R, for two (2) semi-tractors. The bid document was posted on the City's website and PublicPurchase.com. Thirty-one (31) vendors received the bid notification via the Public Purchase website and three (3) vendors responded with bids by the July 15, 2019, deadline.

The City issued a Request for Clarification (RFC) on August 1, 2019 to vendors that submitted bids to confirm the semi-tractor they were proposing included a "Look-Down Pass Door Black 11x6" per the bid specifications. Each vendor confirmed this specification prior to the RFC deadline of August 8, 2019. Among the three bids received, Gibbs Truck Centers submitted the lowest responsive bid at $209,048.46. The two other vendor bids were submitted from Velocity Truck Center at $260,752.26 and Inland Kenworth at $296,321.58.

Purchase Order No. ____ with Gibbs Truck Centers for Two (2) Semi-Tractors
Page 2 of 2

DISCUSSION

The new semi-tractors will replace semi-tractors that have exceeded their serviceable life. The current ER tractor fleet has an average age of seventeen (17) years in service, with an average of 550,000 miles driven. The industry standard life of a semi-tractor is seven (7) years. This purchase continues to modernize the transfer fleet; increasing operating efficiencies, minimizing down time and unnecessary maintenance expense.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

Funding is provided by the Environmental Resources Fleet Replacement Project No. 187417 (Account Number 742-7943-826-8607) for the purchase of the two (2) semi-tractors.

Prepared by Grant Dunne, Management Analyst III

COMMITTEE OUTCOME:

TBD

ATTACHMENT:

Attachment A – Amendment to Purchase Order No. _____

Project Budget Report

Project 187417

FLEET REPLCMNT-ER

Type: CP - CAPITAL PROJECTS Sub-Type: VR - VEHICLE REPLACEMENT

Manager: HOUSLEY, TODD

Printed on September 16, 2019
data current as of September 15, 2019
for FY 2020

Account Number *Account Description*	Budget Project to Date	Budget FY to Date	Expenditures Project to Date	Expenditures FY to Date	Outstanding Encumbrances	Unencumbered Balance Project to Date
Fund 742 - FLEET VEHICLE REPLACEMENT						
742-7943-826.86-06 *MACHINERY AND EQUIPT.-NEW*	0.00	0.00	0.00	0.00	0.00	0.00
742-7943-826.86-07 *MACH & EQUIP-MAJOR REPAIR*	327,172.00	0.00	0.00	0.00	0.00	327,172.00
Fund 742 - FLEET VEHICLE REPLACEMENT Total:	**327,172.00**	**0.00**	**0.00**	**0.00**	**0.00**	**327,172.00**
Project 187417 Total:	**327,172.00**	**0.00**	**0.00**	**0.00**	**0.00**	**327,172.00**

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.9.

DATE: December 3, 2019

TO: City Council

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Award Agreements for On-Call Professional Engineering Services.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute:
1. Agreement No. A-8177 with Encompass Consultant Group, Inc. for On-Call Professional Engineering and Surveying Services for a three year term, not to exceed $500,000; and
2. Agreement No. A-8178 with Gannett Fleming, Inc. for On-Call Professional Engineering Services for a three year term, not to exceed $250,000.
(Public Works and Transportation Committee approved 3-0)

BACKGROUND

On October 18, 2018, the Public Works Department sent out a Request For Qualifications (RFQ) for Master On-Call Professional Engineering Services. The RFQ solicited proposals for various professional on-call engineering services that include: Project Management, Civil Engineering, Geotechnical Engineering, Traffic Engineering, Surveying, Landscape Architecture and Design, Environmental Planning and Permitting Services, Engineering Plan Review, and Construction Management, Inspection and Testing. These services are required due to the specialized nature of various projects as well as the need to complete the projects within the Capital Improvement Program (CIP) in a timely manner due to the shortage in staffing within the division. A panel that consisted of the previous City Engineer and current City Engineer selected 32 firms that best met the City's criteria from the RFQ. Encompass Consultant Group, Inc. and Gannett Fleming, Inc. agreements have been completed and prepared and seek Public Works and Transportation Committee and City Council approval. Additional agreements will be brought forward to Committee and Council once agreements are completed by staff.

DISCUSSION

Public Works Department will bring forward various agreements to establish On-Call Professional Engineering Services with successful consultants or firms to provide professional and technical expertise once agreements are prepared. These agreements are necessary due to the volume and nature of work within the Public Works Engineering Division and will continue to support the departmental needs for various projects. The scope of work under these agreements are as follows:

Consultant	Term	Amount	Scope of Services
Encompass Consultant Group, Inc.	Three Years	$500,000	• Engineering • Surveying

Gannett Fleming, Inc.	Three Years	$250,000	• Engineering

Below is a list of previously awarded On-Call Professional Engineering Services.

Consultant	Term	Amount	Scope of Services
Kennedy Jenks (Agreement No. A-8154)	Three Years	$750,000	• Construction Management, Inspection and Testing • Engineering • Environmental Planning and Permitting
Filippin Engineering (Agreement No. 8699-19-PW)	Three Years	$250,000	Construction Management, Inspection and Testing
MNS Engineers (Agreement No. A-8159)	Three Years	$750,000	• Construction Management, Inspection and Testing • Surveying • Engineering
Wallace Group, A California Corporation (Agreement No. A-8166)	Three Years	$1,000,000	• Construction Management, Inspection and Testing • Engineering • Environmental Planning and Permitting • Landscape Architecture and Design
AECOM Technical Services, Inc. (Agreement No. A-8167)	Three Years	$750,000	• Construction Management, Inspection and Testing • Engineering • Landscape Architecture and Design
Dokken Engineering, Inc. (Agreement No. A-8165)	Three Years	$250,000	• Engineering

Huitt-Zollars, Incorporated (Agreement No. A-8164)	Three Years	$500,000	• Landscape Architecture and Design • Surveying
Kier & Wright Civil Engineers and Surveyors, Inc. (Agreement No. A-8168)	Three Years	$250,000	• Engineering
Interwest Consulting Group, Inc. (Agreement No. A-8170)	Three Years	$1,000,000	• Construction Management, Inspection and Testing • Engineering • Environmental Planning and Permitting • Landscape Architecture and Design

Professional Services under this agreement will be composed of task orders for each individual project assigned by the City and under the supervision of a Project Manager. The task order proposal will identify a concise description of the Scope of Work to be performed by the Consultant, the method by which the Consultant plans on completing the Work, and a schedule for completion of the Work. It is the Consultant's responsibility to determine the best and most cost-effective method to complete the Work so that the assigned task order can be completed to the satisfaction of the City of Oxnard. Projects with special requirements (i.e. federally funded) will be publicly bid separately when required.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

Payments will be charged against accounts encumbered by Task Order. Funding will be charged to a given project or funding source dependent upon the services performed. Department / Project Manager will ensure sufficient funding for related tasks prior to initiating task order or services performed.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on November 12, 2019, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Tatiana Arnaout, City Engineer

ATTACHMENTS

1. CA & Consultant Signed Encompass - A-8177
2. CA & Consultant Signed Gannett Fleming On-Call A-8178

3. Master On-Call Professional Engineering Services RFQ# PW 19-13R (3)
4. Master List of Consultants - Pass and Fail (3)

Agreement No. **A-8177**

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

(1) Agreement Start Date: 10/01/2019

(2) Consultant: Encompass Consultant Group, Inc.

(3) Services: Providing On-Call Engineering and Surveying Consulting Services.

(4) Schedule of Services: The services must be completed within 1,095 calendar days of the Agreement Start Date listed above.

(5) Agreement Ending Date: 10/01/2022

(6) Total Agreement Amount: $500,000

(7) City's Project Manager: Tatiana Arnaout, Acting City Engineer

(8) Consultant's Project Manager: James Fallon, P.L.S., Principal Surveyor

(9) Insurance Coverage: INS-A

(10) Addresses for Notice:

FOR CONSULTANT:

333 N. Lantana St.
Camarillo, CA 93010
Attn: James Fallon, Secretary

FOR CITY:

305 W. Third St, East Wing, 3rd Fl
Oxnard, CA 93030
Attn: Tatiana Arnaout, Acting City Engineer

(11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:

James.Fallon@ecgcivil.com

CITY'S PROJECT MANAGER:

tatiana.arnaout@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-A)

Agreement No. **A-8177**

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, for good and valuable consideration, 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.

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-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Consultant invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Consultant and City in this Agreement or in a binding amendment thereto.

9. 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.

10. 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.

11. 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 Consultant 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Hold Harmless, Defense and Indemnity.

a. 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.

b. 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.

c. 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 16 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 16 shall not be restricted by and does not affect the provisions of this Agreement relating to insurance.

17. 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.

18. 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 18.

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 18 shall survive the termination of this Agreement.

19. Confidentiality of Information.

a. For the purposes of this Agreement, "confidential information" means all data or 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. Said data or information constitutes confidential information pursuant to California Government Code Sections 6254(e), 6254(k), 6254(aa), 6254.9, 6254.16, 6254.18 and 6255, which exempts the City's internal programs and network structure and information regarding infrastructure and customer information from disclosure under the California Public Records Act (California Government Code Sections 6250 through 6276.48) ("CPRA"). Without in any way affecting the confidential nature of the information, the City will provide the requested information to the Consultant pursuant to the terms of this Agreement, and the City's disclosure shall not constitute a public disclosure pursuant to Government Code Section 6254.5.

c. All confidential information 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.

d. 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.

e. 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.

f. 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.

g. Consultant will use the confidential information solely for the limited purposes of the Services.

h. Except as otherwise agreed upon by the Parties, Consultant shall maintain physical custody or control over all confidential information obtained by it and shall be responsible for ensuring that such confidential information is not disclosed.

i. Without prejudice to the rights and remedies otherwise available to City, Consultant acknowledges and agrees that: the confidential information is valuable to City, unique, and contains sensitive information; a breach of this Agreement could cause irreparable harm to City; and that City could be entitled to seek injunctive relief, specific performance or both if Consultant breaches or threatens to breach any of the provisions of this Agreement.

j. All confidential information shall remain the property of City. Following Consultant's completion of the Services, Consultant shall promptly destroy all such confidential information in its possession or control and certify such destruction to City in a writing signed by an authorized representative.

k. This Section 19 shall survive the termination of this Agreement.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 18701(a)(2) 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.

25. 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.

26. 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.

27. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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 relieve 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.

38. 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.

39. 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.

40. 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.

Agreement No. **A-8177**

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

☒ Tim Flynn, Mayor[1] Date
☐ Alexander Nguyen, City Manager
☐ Lisa Boerner, Purchasing Manager
☐ [name], Buyer

ATTEST:

Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) Date 10-23-19

ENCOMPASS CONSULTANT GROUP, INC.

Glen H. Pace, Chief Executive Officer[2] Date 10/22/2019

James Fallon, Secretary Date 10/22/2019

[1] The City Council must authorize and the Mayor must sign any agreement over $200,000 annually. The City Manager may authorize and sign any agreement over $100,000 but up to $200,000 annually. The Purchasing Manager may authorize and sign any agreement up to $100,000 annually. A Buyer may authorize and sign any agreement up to $25,000 annually.

[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.

Agreement No. **A-8177**

SCOPE OF SERVICES EXHIBIT

Engineering Scope of Work

Professional Services under this agreement will be composed of task orders for each individual project assigned by the City. The task order proposal shall identify a concise description of the Scope of Work to be performed by the Consultant and how the Consultant plans on completing the Work and a schedule for completion of the Work. It is Consultant's responsibility to determine the best and most cost-effective method to complete the Work so that the assigned task order can be completed to the satisfaction of the City of Oxnard. Task orders will be negotiated as a lump sum amount per term based upon the hourly rate fee schedule as agreed to by the City and Consultant for all services and under agreement amount. Task order funds will be encumbered based on quote provided to City by Consultant per task order. This Scope of Work will allow for additional professional services offered by Consultant and the services noted below shall not be restricted to those directly stated. The Scope of Work shall include, but not be limited to the following:

1. The generation of complete set of plans, specifications and construction engineering estimates for City wide projects. Project types may include, but not be limited to:
   a. Bike and pedestrian facilities (bike lanes, pedestrian paths).
   b. City Park improvements- restrooms, parking lots, service roads.
   c. Preliminary engineering in support of grant applications (feasibility studies, draft applications, graphic attachments, benefit cost analysis).
   d. Traffic signal design (new signals, signal modifications, signal synchronization).
   e. Drainage improvement projects.
   f. Intersection modifications.
   g. Pavement maintenance projects.
   h. Sidewalk infill.
   i. Alley improvements.
   j. Pipeline design: sewer, recycled and potable.
   k. Wastewater projects.
   l. Water supply projects.
   m. Electrical.
   n. Architectural.
   o. Grant application support

2. Plan check and peer review.

3. Constructability review.

4. Coordination with utilities, special districts, and public agencies.

5. Preparation of project drawings in CAD.

6. Consultants are responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract and legal issues among others.

7. Additional professional services offered by Consultant.

Surveying Scope of Work

Professional Services under this agreement will be composed of task orders for each individual project assigned by the City. The task order proposal shall identify a concise description of the Scope of Work to be performed by the Consultant and how the Consultant plans on completing the Work and a schedule for completion of the Work. It is Consultant's responsibility to determine the best and most cost-effective method to complete the Work so that the assigned task order can be completed to the satisfaction of the City of Oxnard. Task orders will be negotiated as a lump sum amount per term based upon the hourly rate fee schedule as agreed to by the City and Consultant for all services and under agreement amount. Task order funds will be encumbered based on quote provided to City by Consultant per task order. This Scope of Work will allow for additional professional services offered by Consultant and the services noted below shall not be restricted to those directly stated. The Scope of Work shall include, but not be limited to the following:

1. Provide map check, legal description check, corner record preparation and lot line adjustment review services.

2. The map checks shall include, but are not necessarily limited to:
   a. Review of survey documentation.
   b. Lot and boundary closure calculations.
   c. Dedications and easement provisions.
   d. Legal descriptions and completeness and accuracy of data notation.
   e. Review of completeness of submittals.
   f. Document submittal deficiencies and advise the City as necessary.
   g. Identify any additional reference materials required for a thorough map check.
   h. Parcel Map Approval - Sign and stamp City Surveyor's Statement attesting to technical correctness on Parcel Maps in accordance with Chapter 2, Maps; Article 3, Section 66450.
   i. Final Map Approval - Sign and stamp City Surveyor's Statement attesting to technical correctness on Final Maps in accordance with Chapter 2, Maps; Article 2, Section 66442.

3. Some of the specific items that shall be reviewed and/or map checked are as follows:
   a. Title sheet information.
   b. Current legal descriptions.
   c. Correct assessor's parcel being subdivided per the Title Report.
   d. Closure of subdivision boundary and individual lots.
   e. Verify lot areas.
   f. Check for correct mathematics.
   g. Proper delineation and identification of record data.
   h. All appropriate data in the Title Report is shown on the map.
   i. Proper reference to adjacent record maps is shown.
   j. Proper references and ties to found/set monuments are shown.
   k. Calculated, recorded, and measured distances agree, or variances are noted on the map.
   l. Verify ownership shown on the map against the Title Report.
   m. Compliance with the Subdivision Map act and City of Oxnard Subdivision Ordinance.

4. Legal descriptions shall be reviewed at a minimum for completeness for mathematical closure (when applicable), compliance with the Professional Land Surveyors' Act, and conformance with current Title Report. Grant Deed, Easement Deed and other document forms that may be included in the review process. Legal description checks shall include, but are not necessarily limited to:
   a. Closure calculations.
   b. Legal description completeness.
   c. Review of completeness of deed exhibit map.
   d. Document submittal deficiencies and advise the City as necessary.
   e. Identify any additional reference materials required for a thorough deed check.
   f. Approval - Sign and stamp legal description legal description.

5. Corner Record Services Component. Corner Records shall be reviewed or prepared and filed in conformance with Business and Professions Code Section 8771 and Ventura County Surveyor requirements, documenting the locations of existing monuments that are in jeopardy of being destroyed, obscured or obliterated when a capital improvement project is constructed or reconstructed. Corner record services shall include, but are not necessarily limited to:
   a. Review of corner records prepared by City Staff or contracted Consultant for completeness and accuracy.
   b. Prepare corner records.
   c. Approve - sign and stamp corner record for filing with County Surveyor's Office.

6. Lot Line Adjustment and Lot Merger Services Component services shall include, but are not necessarily limited to:
   a. Lot line adjustment and Lot Merger documents shall be reviewed or prepared at a minimum for compliance with the City of Oxnard Lot Line Adjustment and Lot Merger Requirements, the Subdivision Map Act, and the Land Surveyor's Act.
   b. Lot line adjustment and Lot Merger services include, but are not necessarily limited to:
      i. Review/prepare legal descriptions associated with lot line adjustments.
      ii. Civil Code 1093 clause on face of Legal description.
      iii. Acknowledgement (Notary Statement).
      iv. Exhibit A (Legal description of property being conveyed).
      v. Exhibit B (Sketch of legal description in Exhibit A).
      vi. Review/prepare Partial Reconveyance documents.
      vii. Review/prepare Modified Deed of Trust.
      viii. Review/prepare Owner's Certificate and Certificate of Holders of Record Title.
      ix. Review/prepare Notice Document (if applicable).
      x. Verify ownership shown on documents against the Title Report.

7. Field Services. Complete field services performed at the request of the City shall include, but are not necessarily limited to:
   a. Construction.
   b. Geodetic Control.
   c. Boundary.
   d. Right of way location.
   e. Monitoring I Subsidence surveys.
   f. Supplemental Ground Topography

8. Consultants are responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract and legal issues among others.

9. Additional professional services offered by Consultant.

RATES AND COSTS EXHIBIT

ENCOMPASS CONSULTING GROUP

Rate Sheet

Engineering

Designer	$95
Senior Designer	$125
Assistant Engineer I	$110
Assistant Engineer II	$125
Associate Engineer	$140
Senior Engineer I	$155
Senior Engineer II	$165
Principal Engineer	$175

General

Technical/Clerical Support	$65
Testimony (Trial or Deposition)	2.5 x Hourly Rate
Special Consultant	$185
(Principal with specialized skills in engineering, geomatics or planning)	
Outside Consultant	Cost + 10%
Reimbursable Expenses	Cost + 10%

Geomatics (Surveying & Mapping)

Assistant Surveyor I	$110
Assistant Surveyor II	$125
Associate Surveyor	$140
Senior Surveyor I	$155
Senior Surveyor II	$165
Principal Surveyor	$175
One-Man Survey Crew	$155
Two-Man Survey Crew	$225
Three-Man Survey Crew	$290
One-Man Survey Crew (Prevailing Wage)	$180
Two-Man Survey Crew (Prevailing Wage)	$250
Three-Man Survey Crew (Prevailing Wage)	$365

Planning

Assistant Planner	$100
Associate Planner	$120
Senior Planner	$135
Principal Planner	$155

INSURANCE EXHIBIT

Exhibit INS-A

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 (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. A-8177
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

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.

9/19

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
Attn: Insurance Compliance
Reference No.A-8177
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

Rev. 9/19 INS-A.doc

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:

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.

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.

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.

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.

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.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:

Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or

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. A-8177
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-8177**

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.

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.

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.

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.

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.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:

Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or

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 _____

Rev. 9/19 INS-A.doc

Agreement No. **A-8178**

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

(1) Agreement Start Date: 10/01/2019

(2) Consultant: Gannett Fleming, Inc.

(3) Services: Providing On-Call Engineering Consulting Services.

(4) Schedule of Services: The services must be completed within 1,095 calendar days of the Agreement Start Date listed above.

(5) Agreement Ending Date: 10/01/2022

(6) Total Agreement Amount: $250,000

(7) City's Project Manager: Tatiana Arnaout, Acting City Engineer

(8) Consultant's Project Manager: Kenneth E. Hume, Vice President

(9) Insurance Coverage: INS-A

(10) Addresses for Notice:

FOR CONSULTANT:

570 Rancheros Dr. Suite 200
San Marcos, CA 92069
Attn: Kenneth E. Hume, Vice President

FOR CITY:

305 W. Third St, East Wing, 3rd Fl
Oxnard, CA 93030
Attn: Tatiana Arnaout, Acting City Engineer

(11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:

khume@gfnet.com

CITY'S PROJECT MANAGER:

tatiana.arnaout@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-A)

Agreement No. **A-8178**

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, for good and valuable consideration, 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.

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-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Consultant invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Consultant and City in this Agreement or in a binding amendment thereto.

9. 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.

10. 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.

11. 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 Consultant 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Hold Harmless, Defense and Indemnity.

a. 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.

b. 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.

c. 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 16 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 16 shall not be restricted by and does not affect the provisions of this Agreement relating to insurance.

17. 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.

18. 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 18.

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 18 shall survive the termination of this Agreement.

19. Confidentiality of Information.

a. For the purposes of this Agreement, "confidential information" means all data or 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. Said data or information constitutes confidential information pursuant to California Government Code Sections 6254(e), 6254(k), 6254(aa), 6254.9, 6254.16, 6254.18 and 6255, which exempts the City's internal programs and network structure and information regarding infrastructure and customer information from disclosure under the California Public Records Act (California Government Code Sections 6250 through 6276.48) ("CPRA"). Without in any way affecting the confidential nature of the information, the City will provide the requested information to the Consultant pursuant to the terms of this Agreement, and the City's disclosure shall not constitute a public disclosure pursuant to Government Code Section 6254.5.

c. All confidential information 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.

d. 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.

e. 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.

f. 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.

g. Consultant will use the confidential information solely for the limited purposes of the Services.

h. Except as otherwise agreed upon by the Parties, Consultant shall maintain physical custody or control over all confidential information obtained by it and shall be responsible for ensuring that such confidential information is not disclosed.

i. Without prejudice to the rights and remedies otherwise available to City, Consultant acknowledges and agrees that: the confidential information is valuable to City, unique, and contains sensitive information; a breach of this Agreement could cause irreparable harm to City; and that City could be entitled to seek injunctive relief, specific performance or both if Consultant breaches or threatens to breach any of the provisions of this Agreement.

j. All confidential information shall remain the property of City. Following Consultant's completion of the Services, Consultant shall promptly destroy all such confidential information in its possession or control and certify such destruction to City in a writing signed by an authorized representative.

k. This Section 19 shall survive the termination of this Agreement.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 18701(a)(2) 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.

25. 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.

26. 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.

27. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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 relieve 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.

38. 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.

39. 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.

40. 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.

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

☒ Tim Flynn, Mayor[1] Date
☐ Alexander Nguyen, City Manager
☐ Lisa Boerner, Purchasing Manager
☐ Buyer

ATTEST:

Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) 10-23-19 Date

GANNETT FLEMING, INC.

Keneth E. Hume, Vice President[2] 10-16-19 Date

Jon H. Kessler, Chief Financial Officer 10/14/19 Date

[1] The City Council must authorize and the Mayor must sign any agreement over $200,000 annually. The City Manager may authorize and sign any agreement over $100,000 but up to $200,000 annually. The Purchasing Manager may authorize and sign any agreement up to $100,000 annually. A Buyer may authorize and sign any agreement up to $25,000 annually.

[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.

RATES AND COSTS EXHIBIT

GANNETT FLEMING, INC.

ENGINEERING SERVICES

RATE SCHEDULE

Classification / Billing Title	Year 1	Year 2	Year 3
Principal	$265.00	$270.00	$275.00
Managing Engineer	$240.00	$245.00	$250.00
Senior Project Manager	$230.00	$235.00	$240.00
Project Manager	$210.00	$214.00	$218.00
Senior Engineer	$200.00	$204.00	$208.00
Senior Operator	$185.00	$189.00	$193.00
Project Engineer	$185.00	$189.00	$193.00
Engineer	$165.00	$168.00	$171.00
Associate Engineer II	$150.00	$153.00	$156.00
Associate Engineer I	$135.00	$138.00	$141.00
CADD Designer	$155.00	$158.00	$161.00
Senior Drafter	$150.00	$153.00	$156.00
Drafter	$135.00	$138.00	$141.00
Field Inspector	$120.00	$122.00	$124.00
Project Accountant	$108.00	$110.00	$112.00
Project Coordinator	$105.00	$107.00	$109.00

Note: Year 1 begins at the commencement of the contract, Year 2 begins one year after the contract commencement date, and Year 3 begins two years after the contract commencement date and extend for 1 year.

Direct Expenses

No markup will be provided on pre-approved travel, lodging, meals or subsistence costs; these direct costs will be reimbursed at cost. Mileage reimbursement will be based on the standard mileage rates published by the Internal Revenue Service (IRS) effective at the time when the mileage costs are incurred. Markup for subconsultants is 10 percent.

INSURANCE EXHIBIT

Exhibit INS-A

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 (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. A-8177
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

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.

8/19

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
Attn: Insurance Compliance
Reference No.A-8177
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

Rev. 8/19 INS-A.doc

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:

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.

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.

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.

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.

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.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:

Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or

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. A-8177
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:

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.

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.

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.

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.

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.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:

Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or

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 _____

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City of Oxnard
Request for Qualification (RFQ)

for

Master On-Call Professional Engineering Services

RFQ# PW 19-13R
Bid Close Date: November 15, 2018
By 2:00 p.m. PT

City Hall
Purchasing Division
300 West Third Street
2nd Floor
Oxnard, CA 93030
www.oxnard.org

Solicitation Opportunities: https://www.oxnard.org/rfps-and-rfqs/

CITY OF OXNARD
REQUEST FOR QUALIFICATIONS

Master On-Call Professional Engineering Services

Notice is hereby given that sealed Statement of Qualifications (SOQ) will be received at the City of Oxnard Purchasing Department at or before 2:00 PM (PDT), Thursday, November 15, 2018 for furnishing and delivering:

Professional on-call engineering services for various projects that include: Project Management, Civil Engineering, Geotechnical Engineering, Traffic Engineering, Surveying, Landscape Architecture and Design, Environmental Planning & Permitting Services, Engineering Plan Review, and Construction Management, Inspection & Testing in accordance with the Request for Qualifications (RFQ). S

There will be a non-mandatory pre-bid meeting, followed by a site visit, both of which will be held on **October 30, 2018 at 10:00 a.m**. in the City of Oxnard Council Chambers, 305 W Third St, First Floor, Oxnard, CA 93030

As a Public Entity, the City of Oxnard (City) adheres to the transparent public bidding process, and utilizes the online web services of Public Purchase, www.publicpurchase.com, a third-party electronic bidding website that allows vendors to register for specific goods and services by selecting a National Institution of Governmental Purchasing (NIGP) code as the commodity part number. Upon registration with Public Purchase, registered Consultant(s) will receive e-mail notifications of upcoming bidding opportunities for the items your company identified. Registered Consultant(s) will also be able to view all the open bids, electronically respond to the bids, and see bid results when they are awarded. Additionally, registered Consultant(s) will receive notices of any addendums to those bids, as well as have the opportunity to post questions and receive answers pertaining to that bid. All questions and answers are posted on-line so that all bidders have access to the same information regarding the bid.

Completion of this process will allow your business to participate in future City business bidding opportunities. It also provides the ability to maintain your data as your business grows or changes.

There is NO CHARGE to register for this service. Public Purchase has other services available for a fee, but that is solely at your discretion and not required to do business with the City.

Just a couple helpful hints before starting your registration:

- ✓ First, bid notifications are based on registered e-mail addresses, hence, it is recommended you use a generic e-mail address for your company, if you have one, and a second email address for a specific individual, if available. That way, if personal e-mail addresses change, your organization still receives notification of bidding opportunities.

- ✓ Secondly, make sure your company has saved the user-name and password in a secure location, so that it is accessible when you are not available.

A third party web based e-Procurement service provider utilized by the City for solicitations. It will take

only minutes to register and it is free. For future bidding, opportunities please also register online. Bidders must submit their questions online at www.publicpurchase.com and must be in written format. All responses to Bidder's questions will be posted online on the Public Purchase website for this particular solicitation.

EXAMINATION OF REQUIREMENTS

Each bidder must carefully examine the requirements contained herein. Upon receipt of responses hereunder, each bidder shall be thoroughly familiar with all requirements contained herein. The failure or omission to examine any form or document shall in no way relieve a bidder from any obligation in respect to this bid as submitted. Any misinterpretation of the requirements is solely that of the bidder's.

Proposers must submit their questions online at www.publicpurchase.com and must be in written format. All responses to Proposer's questions will be posted online on the Public Purchase website for this particular solicitation.

The City cannot guarantee you will receive notice of every opportunity to sell to the City. It is encouraged to visit our Purchasing website at https://www.oxnard.org/rfps-and-rfqs/ for Bidding Opportunities on a regular basis for a listing of current bid solicitations.

PREPARATION OF STATEMENT OF QUALIFICATIONS (SOQ)

1. **Proposer shall submit a SOQ as outlined in Attachment A**. Failure to do so may cause rejection of the SOQ.

2. Proposer may include any other information they deem necessary and not included in this RFQ.

3. Proposers are to submit separate SOQs for each service category (Attachment B) they want to be considered for.

4. The SOQ must be submitted by an authorized agent of the submitting entity.

PROPOSED TIMELINE

Proposers will be responsible to carefully examine the requirements contained herein.

DATE	ACTIVITY
October 18, 2018	Release of Solicitation
October 30, 2018	Pre-Proposal Meeting (Non-Mandatory) Location: City of Oxnard Council Chambers 305 W Third St, First Floor Oxnard, CA 93030
November 7, 2018	Last day for Questions by Bidders on or before noon PST.
November 15, 2018	Submission of the Proposal is due to the City of Oxnard Purchasing Division by **2:00 p.m.**
November 2018	Review of Qualifications
November 2018	Possible Oral Interviews
December 2018	Agreement Development/Negotiations
December 2018	City Council approval
December 2018	Contracted work begins

The above dates are tentative and are subject to change as necessary.

ATTACHMENT A

1.0 GENERAL CITY INFORMATION

The City of Oxnard, incorporated as a general law city in 1903, is located about sixty miles west of the Los Angeles Civic Center and about ten miles southeast of the City of Ventura. It is situated near the mouth of the Santa Clara River on a gently sloping alluvial fan commonly known as the Oxnard Plain. Elevations in the City range from mean sea level to about 100 feet above mean sea level. Today, the City of Oxnard has a population of slightly more than 200,000 residents and its corporate limits cover an area of about 32 square miles.

1.1 BACKGROUND INFORMATION

The Public Works Department is dedicated to enhancing the quality of life in the City of Oxnard by providing the highest quality of public works services, facilities and infrastructure to meet the needs of the community. The Public Works Department has 8 divisions that serve the Oxnard Community. The City requires the services of qualified firms to provide:

Project Management
Engineering-Various
Landscape Architecture and Design
Environmental Planning and Permitting
Engineering Plan Review
Construction Management, Inspections and Testing

The number of contracts let by the City will be dependent upon the qualifications and/or combination of qualifications submitted by the consultants and contingent upon the approval of City Council. We anticipate a budget of approximately $442 Million for design and construction of capital improvements projects over the next 5 years. We plan to let multiple three-year contracts in each service category after we have established a pre-qualified list of Consultants. Project assignments will be distributed based on qualifications with the City requesting fee proposals from three consultants for each work order over $100,000.

1.2 GENERAL FIRM INFORMATION

Please provide the following information in your SOQ. The format of the SOQ shall follow the order of contents as listed below. Limit your response to 25 single-sided pages (excluding supplemental information such as staff resumes, sub-consultant resumes, and general administrative information).

1. Indicate for which service category the Consultant is submitting;
2. Name of firm;
3. Mailing address, phone, fax, e-mail;

4. Location of principal office(s);
5. Name(s) of firm principal and/or manager of consultant team;
6. Educational background of firm principal and/or manager of consultant team;
7. Professional licensing of principal and/or manager of consultant team, where issued;
8. General practice, or specialization in certain subject area(s); major experience of firm-clients, type of work, locations;
9. Major experience of firm principal and/or manager of consultant team of work, locations, how long;
10. Relevant professional staff numbers, including relevant education and experience;
11. Summary of past work for City of Oxnard;
12. Summary of past work for other public agencies other than City of Oxnard;
13. Summary of past work for other clients in Ventura County;
14. Provide a schedule of staff hourly rates;
15. General administrative information as shown below; and
16. Other relevant information, as desired by the firm.

1.3 GENERAL ADMINISTRATIVE INFORMATION

Certification of Non-Debarment

The City of Oxnard will be receiving Federal or State Grant funds. All potential Proposers must go to the following websites and submit a printout with their qualification(s) that verifies that the Proposer is not listed on any of the following exclusion lists. If awarded a contract, awarded vendor must notify the City immediately if debarred at any time during the contract period. A screen shot of each website will suffice.

Proposers must certify that it or any of its subcontractors do not appear on State and Federal exclusionary lists, including but not limited to:

a. General Services Administration (GSA) Excluded Parties Lists System (EPLS).

b. In the event the vendor is excluded, ineligible, or terminated from participation in State and/or Federal programs, the solicitation process shall be subject to immediate termination and a contract will not be awarded.

Proposers must include the following language in the SOQ:

I further attest that if selected, my Firm/Company/Sole Proprietorship will conduct regulatory sanction and exclusion screenings of subcontracted entities prior to engagement with said entities and monthly thereafter.

I understand that if my Firm/Company/Sole Proprietorship becomes excluded, ineligible, or terminated from participation in State and Federal programs, any contracts held with the City will be subject to immediate termination for cause.

Print Name:

Signature: *Date:*

Title of Agent/Officer:

"Execution hereof is certification that the undersigned has read and understands the terms and conditions hereof, and that the undersigned's principal is fully bound and committed."

Proprietary Statement

Firms submitting qualifications must provide a statement that nothing contained in the submittal or subsequent interview (if required) is proprietary, however, if proprietary information is included, a statement should be provided identifying any specific information which the consultant contends is proprietary or confidential and the legal basis for such a claim.

Insurance

Include a statement certifying that your firm will provide the City's required insurance coverages (see Exhibit INS-A).

Statement of Past Contract Disqualifications

Firms submitting qualifications must disclose if the Firm or any of its officers or employees who have a proprietary interest in the firm have ever been disqualified, removed, or otherwise prevented from bidding on, or completing a Federal, State, or local government project because of a violation of law or a safety regulation. If so, explain the circumstances.

Certification of Content & References

Proposer's SOQ must include the language shown in Attachment D.

1.4 SELECTION AND APPROVAL PROCESS

All SOQs that fail to follow the instructions in the Submittal Requirements section will not be reviewed and will be found not pre-qualified. All SOQs that follow the instructions in the Submittal Requirements section of this RFQ will be reviewed in the following manner.

SOQs will be reviewed by Public Works employees with expertise in each of the categories in the Scope of Services (Attachment B). The criterion for rating the SOQs is shown below:

1. Completeness of Response: Pass or Fail
2. Appropriate professional licensure: Pass or Fail
3. Provide City-required insurance coverage: Pass or Fail

4. Firm's general professional experience: (1-10 points)
5. Firm's experience for this service group category (1-40 points)
6. Firm's experience with public agencies (1-10 points)
7. Qualification, experience, and education of professional management (1-20 points)
8. Qualifications, experience, and education of professional staff (1-20 points)

Scoring: Questions 1, 2 & 3 must pass to qualify, and Questions 4-8 must accumulate a minimum of 60 points to qualify. If there is more than one rater the scores will be averaged.

1.5 SUBMITTAL REQUIREMENTS

All SOQs that fail to follow the instructions in the Submittal Requirements section will not be reviewed. All SOQs that follow the instructions in the Submittal Requirements section of this RFQ will be reviewed in the following manner:

- ☐ SOQ submittals need to be received no later than 2:00 pm on November 15, 2018;
- ☐ SOQ shall be submitted in a sealed envelope to Purchasing Department and marked "Master On-Call Professional Engineering Services", with the service category (ies) from Attachment B and the Proposer's Name listed on the envelope;
- ☐ Formatting and content of SOQ shall follow the order and include the information as identified in the General Firm Information section of this RFQ;
- ☐ Include a statement certifying that your firm will provide the City's required insurance coverages (see Exhibit INS-A);
- ☐ Include Proprietary Statement;
- ☐ Provide name, title, address, phone number, and email address of the contact person from your firm to correspond with regarding this submittal; and
- ☐ Provide as reference the name of at least three (3) agencies you currently or have previously consulted for in the past three (3) years.

1.6 NOTICE

If a Firm is selected for the pre-qualified list, the Firm must notify the City in writing within thirty (30) calendar days of any changes in ownership or its Principals.

For Federally funded projects, Firms on the pre-qualified list may need to submit separate proposals and enter into a separate contract with the City as required by the specific Federally funded project.

ATTACHMENT B

SCOPE OF SERVICES

Proposers must prepare a SOQ for each service listed below that the bidder wishes to submit for review.

1.0 PROJECT MANAGEMENT

The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Project Management services as needed by the City. The City is anticipating a variety of construction projects to commence in the near future. As such, the City is actively seeking Consultants familiar and experienced in Project Management. It is the City's intention to enter into contracts with multiple firms for Project Management services. The City will be evaluating consultant firms for providing Project Management for various funded projects. By contracting with multiple firms the City will have the flexibility to obtain Project Management services in a timely manner.

The outcome of the first step Statement of Qualifications (SOQ) will be multiple contracts for a list of consultants with cost/price agreements. The subsequent project work will be procured through individual competition on a per-project basis amongst the consultants. All work performed under this contract will require approval by the City of Oxnard and issued through a Task Order. A project specific RFQ will refine the scope of services prior to issuing the Task Orders. The Task Order shall detail the tasks required for particular projects, schedule, and projected costs. The costs will be based on the specified rates of compensation in the contract. The Contract Administrator shall confer with the consultant to establish the maximum fee, including expenses, for the specific project and to establish the completion and no Task Order is valid unless the contract is still enforced. Federal regulations indicate the maximum length of consultant contract agreements shall not exceed five years in total.

The City of Oxnard is hereinafter referred to as "City". The firm with Project Management services is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services listed as further described in this section.

1.1 PROJECT DESCRIPTION

a) The City is seeking Project Management services to comply with required documents and meet federal, state and local requirements. In performing all Project Management services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City. The City has a variety of public works projects scheduled within the next several years, as well as other developments requiring Project Management services.

b) The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments.

c) Below is a list of anticipated project types covered by this RFQ. Any prequalified consultant may be selected for one or more of these projects, based on qualifications and availability.

i. Bike and pedestrian facilities (bike lanes, pedestrian paths)
ii. City Park improvements - restrooms, parking lots, service roads
iii. Support of grant applications (draft applications, graphic attachments, benefit cost analysis)
iv. Traffic signals (new signals, signal modifications, signal synchronization)
v. Drainage improvements
vi. Intersection modifications
vii. Pavement maintenance
viii. Sidewalk infill
ix. Pipeline installation: sewer, recycled and potable
x. Wastewater projects
xi. Water supply projects
xii. Electrical
xiii. Architectural
xiv. Major building renovations
xv. Alley improvements

1.2 TYPICAL SERVICES REQUIRED

a) The required services and abilities required to successfully perform Project Management services on the project types listed above include, but are not limited to:

i. Continuous status reporting and interface with City staff regarding projects
ii. Attend project meetings and prepare meeting agendas and action items
iii. Follow up to ensure action items are complied with
iv. Coordination with engineering consultants
v. Coordination with other agencies
vi. Provide technical review and comment on consultant deliverables
vii. Development/maintenance of project schedules
viii. Prepare bid-packages
ix. Track and monitor project costs
x. Track and monitor all funding
xi. Prepare grant funding claims as requested
xii. Prepare grant applications (draft applications, graphic attachments, benefit cost analysis)
xiii. Prepare RFPs for professional services, as required to continue progress of projects.

1.3 REQUIREMENTS

a) Consultant(s) shall meet the following requirements:

i. Experience: The Consultant must have experience providing Project Management services to municipalities of similar size and similar projects.

ii. Deadlines: The Consultant must meet the deadlines listed in the various Project schedules. The Consultant will have the opportunity to help create the schedule, but once finalized must adhere to it/them.

iii. Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

iv. Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

2.0 ENGINEERING

BACKGROUND

a) The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Engineering services as needed by the City. The City will be evaluating engineering firms for providing various services for various funded projects (Grants, City, etc.) It is the City's intention to enter into contracts with multiple firms for Engineering and Environmental services. These firms will be contracted to provide engineering design, environmental planning, review and project documentation as well as drawing preparation services as requested by the Public Works Department. By contracting with multiple firms the City will have the flexibility to obtain these services in a timely manner and avoid possible conflicts of interest.

b) The successful Consultant(s) will work closely with City personnel and be responsible for:

i. The generation of complete set of plans, specifications and construction engineering estimates for city wide projects
ii. The review and/or preparation of environmental documents
iii. Preparation of project drawings in CAD.

c) The City of Oxnard is hereinafter referred to as "City". The firm with professional Engineering services is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services listed in the Request for Qualifications as further described in this section.

2.1 PROJECT DESCRIPTION

a) The Consultant will be asked to provide all necessary engineering, environmental and drawing services to bring a project to the point of completion. In performing all Engineering services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City. The City has a variety of public works and capital improvement construction projects scheduled within the next several years, which may require engineering

services and/or peer review. The City will also have a variety of other developments that will provide public improvements that may result in plan checking services of the improvement plans.

b) The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments. No subcontractors shall be utilized without prior authorization by the City.

c) Below is a list of anticipated project types covered by this RFQ. Any prequalified consultant may be selected for one or more of these projects, based upon qualifications and availability.

i. Bike and pedestrian facilities (bike lanes, pedestrian paths)
ii. City Park improvements- restrooms, parking lots, service roads
iii. Preliminary engineering in support of grant applications (feasibility studies, draft applications, graphic attachments, benefit cost analysis)
iv. Traffic signal design (new signals, signal modifications, signal synchronization)
v. Drainage improvement projects
vi. Intersection modifications
vii. Pavement maintenance projects
viii. Sidewalk infill
ix. Alley improvements
x. Pipeline installation: sewer, recycled and potable
xi. Wastewater projects
xii. Water supply projects
xiii. Electrical
xiv. Architectural
xv. Major building renovations
xvi. Grant application support

2.2 TYPICAL SERVICES REQUIRED

a) The required services and abilities required to successfully perform engineering design services on the project types listed above include, but are not limited to:

i. Preparation of plans, specifications and estimates
ii. Plan Check/Peer Review
iii. Preparation of project drawings in CAD
iv. Constructability Review and Plan Check
v. Understanding and application of standard details and specifications from:
   - City of Oxnard
   - Caltrans
   - Greenbook

- APWA
- AWWA
- County of Ventura
- City of Ventura

vi. Best Management Practices

vii. Ability to work with utilities, special districts, and public agencies in and adjacent to the City of Oxnard, as well as federal and state agencies

viii. Understanding of environmental regulations relevant to construction activities

ix. Consultant is responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract or potential legal issues among others

x. Knowledge and understanding of the use of and requirements of federal documentation associated with federally-funded projects

xi. Consultant and its sub-consultants shall pay employees the applicable wages as determined by California Department of Industrial Relations and Federal, State and local laws

2.3 REQUIREMENTS

a) Consultant(s) shall meet the following requirements:

i. Experience: The Consultant must have a minimum of 5 years' experience providing Engineering services to municipalities of similar size or sufficient experience in Design and Plan Check/Peer Review of similar projects. Specifically, experience should include, but not be limited to all projects types listed herein.

ii. Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

iii. Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

3.0 GEOTECHNICAL ENGINEERING

BACKGROUND

a) The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Geotechnical Engineering services as needed by the City. The City is anticipating a variety of construction projects to commence in the near future. It is the City's intention to enter into contracts with multiple firms for professional Geotechnical Engineering services. The City will be evaluating consultant firms for providing Geotechnical Engineering for various funded projects. By contracting with multiple firms the City will have the flexibility to obtain geotechnical services in a timely manner.

b) The successful Consultant(s) will work closely with City personnel and be responsible for:

i. The review and/or preparation of geotechnical documents

ii. Studies and recommendations

iii. Oversight of field work such as drilling, boring and any other sampling techniques
iv. Preparation of project drawings in CAD.

c) The City of Oxnard is hereinafter referred to as "City". The firm with professional Geotechnical Engineering services is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services as further described in this section.

3.1 PROJECT DESCRIPTION

a) The City is seeking professional Geotechnical Engineering services to comply with required documents and requirements. The Consultant will be asked to provide all necessary Geotechnical Engineering services as needed by the City. In performing all professional Geotechnical Engineering services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City. The City has a variety of public works construction projects scheduled within the next several years, as well as other developments requiring geotechnical services.

b) The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments.

c) Below is a list of anticipated project types covered by this RFQ. Any prequalified consultant may be selected for one or more of these types of projects, based on qualifications and availability.

i. Grading and Site Clearing
ii. Seepage Control and Dewatering Analysis
iii. Foundation Design
iv. Pavement Design
v. Pile Design
vi. Submerged and Partially Submerged Retainment Structure Design
vii. Compacted Fills Soil Classification and Physical Properties
viii. Slope Stability and Protection
ix. Hazardous Materials Seismic Stability
x. Liquefaction
xi. Open and Braced Excavations (Shallow and Deep)
xii. Material Testing
xiii. Groundwater Analysis
xiv. Flexible Retaining Structures
xv. Construction Inspection
xvi. Special Inspection
xvii. Subsurface Geotechnical Investigation
xviii. Field exploration, laboratory testing, and instrumentation
xix. Analysis of sites for drywell projects

xx. Grant application support (draft applications, graphic attachments, benefit cost analysis)

3.2 TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform Geotechnical Engineering services on the project types listed above include, but are not limited to:

a) Constructability Review and Plan Check
b) Understanding and application of standard details and specifications from:
   i. City of Oxnard
   ii. Caltrans
   iii. Greenbook
   iv. APWA
   v. AWWA
   vi. County of Ventura
   vii. City of Ventura

c) Knowledge and understanding of the use of and requirements of federal documentation associated with federally-funded projects
d) Best Management Practices
e) Ability to work with utilities, special districts, and public agencies in and adjacent to the City of Oxnard
f) Understanding of environmental regulations relevant to construction activities
g) Unless already existing, Consultant should establish a local project office in Ventura County within close proximity to the Project, as necessary
h) Consultant is responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract or legal issues among others
i) Consultant and its sub-consultants shall pay employees the applicable wages as determined by California Department of Industrial Relations and Federal, State and local laws

3.3 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5 years' experience providing Geotechnical Engineering services to municipalities of similar size or sufficient experience in Design and Plan Check/Peer Review. Specifically, experience should include, but not be limited to all project types listed herein.

b) Deadlines: The Consultant must meet the deadlines listed in the various Project schedules. The Consultant will have the opportunity to help create the schedule, but once finalized must adhere to it/them.

c) Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

d) Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

4.0 TRAFFIC ENGINEERING

BACKGROUND

a) The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Traffic Engineering services as needed by the City. The City is anticipating a variety of traffic engineering and transportation planning projects to commence in the near future. As such, the City is actively seeking Consultants familiar and experienced with Traffic Engineering and applicable federal, state and local standards and guidelines. It is the City's intention to enter into contracts with a number of firms for professional Traffic Engineering services. By contracting with a number of firms, the City will have the flexibility to obtain traffic services in a timely manner and work on multiple projects simultaneously.

b) The successful Consultants will work closely with City personnel including the City Traffic Engineer on an as-needed basis to assist staff in keeping a variety of projects on schedule and within budget. The City of Oxnard is hereinafter referred to as “City". The firms with professional Traffic Engineering services are hereinafter referred to as "Consultants". Consultant is invited to submit a written SOQ for any or all of the services listed in the cover letter or as further described in this section.

4.1 PROJECT DESCRIPTION

a) The City is seeking professional Traffic Engineering services to assist the Public Works Department in carrying out many project types as listed below. In performing the professional Traffic Engineering services, the Consultants shall work to protect the interests of the City and to provide the highest quality services possible.

b) It is acceptable to submit recommendations and comments for consideration on format, process, and additional content of providing the services. The City will consider comments and recommendations; however, the City is not required to incorporate any of the recommendations or comments. No subcontractors shall be utilized without prior authorization by the City.

c) Below is a list of the anticipated project types covered by this RFQ. Any prequalified consultant may be selected for one or more of these types of projects, based on qualifications and availability.

   i. Traffic and parking studies including warrant analysis as applicable
   ii. Transportation demand management programs
   iii. Signal timing and coordination plans, and recommendations on signal maintenance and upgrades
   iv. Planning and conceptual designs of traffic diversion and calming plans including roundabouts

v. Planning and conceptual designs of complete streets in light of established standards and guidelines, as well as assessment of potential operational impacts (Such as the impacts on auto traffic that could result from a road diet to provide bike lanes)
vi. Development and updates of transportation related policies and guidelines such as transportation master plans
vii. Grant writing for state and regional funding programs for traffic studies and improvement projects
viii. Knowledge and understanding of the use of and requirements of federal documentation associated with federally-funded projects
ix. Review of the traffic and parking aspects of City capital improvement projects
x. Multi-modal travel modeling and traffic volume forecasts
xi. Establishment and updates of transportation related fees such as traffic impact fees
xii. Traffic and parking management and control plans
xiii. Data collection including multi-modal traffic volumes, traffic speeds, origin-destination surveys, travel time and delays, and parking utilization
xiv. Sign and pavement marking retro-reflectivity assessment, and data processing

4.2 TYPICAL SERVICES REQUIRED

a) The services and abilities required to successfully perform Traffic Engineering services on the project types listed above include, but are not limited to:

i. Understanding and application of the Institute of Transportation Engineers (ITE) Trip and Parking Generation Manuals, City of Oxnard zoning ordinance; Climate Action Plan and General Plan, California Manual on Uniform Traffic Control Devices (CA MUTCD), National Association of City Transportation Officials (NACTO), CA Standard Plans and Specifications, etc.
ii. Understanding and application of relevant operational and travel modeling software such as Synchro, Sidra, Visum, and EMME2
iii. Best Management Practices
iv. Understanding of environmental regulations relevant to the transportation system
v. Consultants are responsible for keeping City regularly informed with regard to issues related to cost, schedule, contract and legal issues among others
vi. Consultants and any sub-consultants shall pay their employees the applicable prevailing wages as determined by California Department of Industrial Relations and Federal, State and local laws

4.3 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5 years' experience providing Traffic Engineering services to municipalities of similar size or sufficient experience in the transportation planning and traffic engineering. Specifically, experience should include but are not limited to: safety studies, operational studies, warrant analysis, signal operations, conceptual road designs and data collection and travel modeling.

b) Deadlines: The Consultant must meet the deadlines listed in the various project schedules. The Consultant will have the opportunity to help create the schedule, but once finalized must adhere to it.

c) Compliance: Consultant shall comply with all applicable Federal, State and local standards and requirements. This includes City insurance and indemnification requirements.

d) Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

5.0 SURVEYING

BACKGROUND

a) The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified land surveying professionals to provide map check, legal description check, corner record preparation and lot line adjustment services, as well as other professional surveyor services as needed by the City. The purpose of the contract is to provide the Public Works Department with the ability to obtain assistance quickly to satisfy City of Oxnard customers and City Staff. Currently, no one on City Staff is qualified to sign the City Surveyor Statement attesting to the technical correctness on Final Maps and Parcel Maps, or to prepare or review legal descriptions and corner records. It is the City's intention to enter into contracts with multiple firms for surveying services. By contracting with multiple firms the City will have the flexibility to obtain professional surveyor consulting services in a timely manner.

b) The City of Oxnard is hereinafter referred to as "City". The firm with a professional land surveyor is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services as further described in this section.

5.1 PROJECT DESCRIPTION

a) The Consultant will be asked to provide all necessary map check, legal description check, corner record preparation and lot line adjustment review services, as well as other professional surveyor services as needed by the City. In performing all professional surveyor services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City. All services shall be performed under the direction of a Professional Land Surveyor licensed in the State of California. No subcontractors shall be utilized without prior authorization by the City.

b) The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process, and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the

recommendations or comments.

5.2 Map Check Services Component

Parcel Maps and Final Maps are to be reviewed at a minimum for mathematical closure and compliance with the Subdivision Map Act, the Professional Land Surveyors' Act, the City of Oxnard Subdivision Ordinance, the approved Tentative Map, the approved Conditions of Approval and a current Title Report.

5.3 The map checks shall include, but are not necessarily limited to:

a) Review of survey documentation
b) Lot and boundary closure calculations
c) Dedications and easement provisions
d) Legal descriptions and completeness and accuracy of data notation
e) Review of completeness of submittals
f) Document submittal deficiencies and advise the City as necessary
g) Identify any additional reference materials required for a thorough map check
h) Parcel Map Approval - Sign and stamp City Surveyor's Statement attesting to technical correctness on Parcel Maps in accordance with Chapter 2, Maps; Article 3, Section 66450
i) Final Map Approval - Sign and stamp City Surveyor's Statement attesting to technical correctness on Final Maps in accordance with Chapter 2, Maps; Article 2, Section 66442

5.4 Some of the specific items that shall be reviewed and/or map checked are as follows:

a) Title sheet information
b) Current legal descriptions
c) Correct assessor's parcel being subdivided per the Title Report
d) Closure of subdivision boundary and individual lots
e) Verify lot areas
f) Check for correct mathematics
g) Proper delineation and identification of record data
h) All appropriate data in the Title Report is shown on the map
i) Proper reference to adjacent record maps is shown
j) Proper references and ties to found/set monuments are shown
k) Calculated, recorded, and measured distances agree, or variances are noted on the map
l) Verify ownership shown on the map against the Title Report
m) Compliance with the Subdivision Map act and City of Oxnard Subdivision Ordinance

5.5 Legal Description Check Services Component

Legal descriptions shall be reviewed at a minimum for completeness for mathematical closure (when applicable), compliance with the Professional Land Surveyors' Act, and conformance with current Title Report. Grant Deed, Easement Deed and other document forms that may be included in the review

process. Legal description checks include, but are not necessarily limited to:

a) Closure calculations
b) Legal description completeness
c) Review of completeness of deed exhibit map
d) Document submittal deficiencies and advise the City as necessary
e) Identify any additional reference materials required for a thorough deed check
f) Approval - Sign and stamp legal description legal description

5.6 Corner Record Services Component

Corner Records shall be reviewed or prepared and filed in conformance with Business and Professions Code Section 8771 and Ventura County Surveyor requirements, documenting the locations of existing monuments that are in jeopardy of being destroyed, obscured or obliterated when a capital improvement project is constructed or reconstructed. Corner record services include, but are not necessarily limited to:

a) Review of corner records prepared by City Staff or contracted Consultant for completeness and accuracy
b) Prepare corner records
c) Approve - sign and stamp corner record for filing with County Surveyor's Office

5.7 Lot Line Adjustment and Lot Merger Services Component

a) Lot line adjustment and Lot Merger documents shall be reviewed or prepared at a minimum for compliance with the City of Oxnard Lot Line Adjustment and Lot Merger Requirements, the Subdivision Map Act, and the Land Surveyor's Act.

b) Lot line adjustment and Lot Merger services include, but are not necessarily limited to:

i. Review/prepare legal descriptions associated with lot line adjustments
ii. Civil Code 1093 clause on face of Legal description
iii. Acknowledgement (Notary Statement)
iv. Exhibit A (Legal description of property being conveyed)
v. Exhibit B (Sketch of legal description in Exhibit A)
vi. Review/prepare Partial Reconveyance documents
vii. Review/prepare Modified Deed of Trust
viii. Review/prepare Owner's Certificate and Certificate of Holders of Record Title
ix. Review/prepare Notice Document (if applicable)
x. Verify ownership shown on documents against the Title Report

5.8 Field Services

Complete field services performed at the request of the City will include but are not necessarily limited

to the following:

i. Construction
ii. Geodetic Control
iii. Boundary
iv. Right of way location
v. Monitoring I Subsidence surveys
vi. Supplemental Ground Topography

5.9 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5 years' experience providing map checking and survey field services to municipalities of similar size or sufficient experience with preparing and recording final maps, parcel maps, lot line adjustments, corner records and legal descriptions. Specifically, experience should include, but not be limited to: subdivision map checking or preparation, creating and reviewing closure calculations, creating and reviewing easements and right-of-way documents, reading and using title reports, collecting topographic site features and surface utilities, etc.

b) Deadlines: A maximum review time for initial map check, legal description check, corner record check, and lot line adjustment check of twenty (20) business days, not including transit time from and to City of Oxnard Public Works Department. Each subsequent document check, if necessary, shall not require more than ten (10) business days, not including transit time.

c) Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

d) Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

6.0 LANDSCAPE ARCHITECTURE AND DESIGN

BACKGROUND

The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Landscape Architecture and Design services as needed by the City. It is the City's intention to enter into contracts with multiple firms for Landscape Architecture and Design services. The City will be evaluating consultant firms for providing services for various funded projects. By contracting with multiple firms, the City will have the flexibility to obtain these services in a timely manner.

6.1 The successful Consultant(s) will be able to provide the City with:

a) Full site grading and drainage
b) Landscape design including drought tolerant and native
c) Park facilities design
d) Lighting design
e) Light Impact Design elements
f) Architectural and plumbing service for restroom facilities
g) Park signage and monumentation
h) Grant application support (draft applications, graphic attachments, benefit cost analysis)

The City of Oxnard is hereinafter referred to as "City". The firm with professional Landscape Architecture and Design services is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services as further described in this section.

6.2 PROJECT DESCRIPTION

The City is seeking professional Landscape Architecture and Design services to comply with required documents and requirements. The Consultant will be asked to provide all necessary services as needed by the City. In performing all professional services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City. The City has a variety of public works construction projects scheduled within the next two years, as well as other developments requiring these services.

The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process, and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments. No subcontractors shall be utilized without prior authorization by the City.

6.3 TYPICAL SERVICES REQUIRED

The services and abilities required to successfully perform Landscape Architecture and Design services on City projects include, but are not limited to:

a) Developing preliminary plans and working drawings
b) Preparing cost estimates and work schedules
c) Preparation of specifications and construction support
d) The landscape architectural consultant must have specific design expertise with landscape designed for United States Green Business Council (USGBC), Leadership in Energy and Environmental Design (LEED) building projects, and shall have a LEED accredited professional as part of the project staff.
e) The landscape architecture firm will also facilitate discipline coordination, coordination between the City and any regulatory agencies as required.

f) Understanding of standard details and specifications from:
   i. Caltrans
   ii. Greenbook
   iii. APWA
   iv. AWWA
   v. City of Oxnard
   vi. County of Ventura
   vii. City of Ventura

6.4 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5 years' experience providing Landscape Architecture and Design services to municipalities of similar size or sufficient experience in Landscape Architecture and Design services. Specifically, experience should include, but not be limited to: Parks, streets, street medians and shoulders, storm drain and bridge construction, etc.

b) Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

c) Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

7.0 ENVIRONMENTAL PLANNING AND PERMITTING SERVICES

BACKGROUND

a) The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Environmental Planning and Permitting Services as needed by the City. The City is anticipating a variety of Public Works Capital Improvement Program projects to commence in the near future. As such, the City is actively seeking Consultants familiar and experienced with environmental permitting and planning procedures specifically for Public Works type projects. Consultant must be familiar with local, state and federal regulations. Consultant would serve on a Project Development Team; in some cases the Consultant would be the sole provider of environmental services, and on larger projects the Consultant would assist Staff in managing the work of a larger environmental services firm. By having multiple firms on the short list the City will have the flexibility to obtain these services in a timely manner and avoid possible conflicts of interest.

b) It is the City's intention to enter into contracts with multiple firms for Environmental Planning and Permitting services. The successful Consultant(s) will be able to provide the City with Environmental Planning and Permitting Services on an as-needed basis to assist Staff in keeping a variety of Public Works projects on schedule.

c) The City of Oxnard is hereinafter referred to as "City." The firm with professional Environmental Planning and Permitting services is hereinafter referred to as "Consultant." Consultant is invited to submit a written SOQ for any or all of the services as further described in this section.

7.1 PROJECT DESCRIPTION

The City is seeking professional Environmental Planning and Permitting Services to assist the Public Works Department in keeping a variety of Public Works projects on schedule. Tasks may include any of the following:

a) Participate in the Project Development Team
b) Assist Public Works staff in navigating the environmental planning and permitting process.
c) Create and file California Environmental Quality Act (CEQA) Categorical Exemptions (CE) documents
d) Assist with filling out permit applications
e) Review and provide comments and/or proposed mitigations to Public Works on environmental documents such as Initial Studies/Scoping documents, Environmental Impact Reports, Mitigated Negative Declarations
f) Interface with City Planners on behalf and with Public Works staff when necessary to facilitate the process.
g) In performing all Environmental Planning and Permitting Services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City.
h) The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments. No subcontractors shall be utilized without prior authorization by the City.
i) Below is a sample list of anticipated projects types that are covered by this RFQ. Any prequalified consultant may be selected for one or more of these construction projects, based upon qualifications and availability.

    i. Bridge Rehabilitation and Maintenance
    ii. Park Improvements
    iii. Drainage Projects
    iv. Flood Control Projects
    v. Paving and Overlay
    vi. Roundabouts
    vii. Road Extension/new roads
    viii. Landscaping
    ix. Bike Paths/Bike Lanes
    x. Pedestrian Improvements
    xi. Parking Lot Improvements

xii. Alley improvements
xiii. Grant application support

7.2 TYPICAL SERVICES REQUIRED

The services and abilities required to successfully perform Environmental Planning and Permitting Services on the project types listed above include, but are not limited to:

a) Application of state and local laws and ordinances and the City's Municipal Code
b) Application of CEQA and National Environmental Policy Act (NEPA)
c) Thorough knowledge and understanding of the City's General Plan
d) Attendance at internal and external meetings with staff and other consultants
e) Attendance at Design Review Board (DRB) and Planning Commission
f) Assist in preparation of Staff Reports and Exhibits for DRB and Planning Commission
g) Review mitigation plans
h) Application of the Storm Water Management Plan and the Regional Water Quality Control Board requirements
i) Understanding of and experience working with various agencies including but not limited to:
   i. Caltrans
   ii. Coastal Commission
   iii. City and County of Ventura
   iv. Fish and Wildlife
   v. Army Corps of Engineers
   vi. Knowledge and understanding of the use of and requirements of federal documentation associated with federally-funded projects

7.3 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5 years' experience providing Environmental Planning and Permitting Services to municipalities of similar size or sufficient experience with reviewing providing comments and conditioning development projects.

b) Deadlines: The Consultant must meet the deadlines listed in the various Project schedules. The Consultant will have the opportunity to help create the schedule, but once finalized must adhere to it/them.

c) Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

d) Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

8.0 ENGINEERING PLAN REVIEW

BACKGROUND
The City of Oxnard is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Engineering Plan Review services for land development projects as needed by the City. The City is anticipating a variety of land development projects to commence in the near future. As such, the City is actively seeking Consultants familiar and experienced in providing engineering review of land development projects. Consultant will review construction documents for conformance to conditions of approval, City engineering design standards, applicable laws and good engineering practice. It is the City's intention to enter into contracts with multiple firms for Engineering Plan Review services. By contracting with multiple firms the City will have the flexibility to obtain said services in a timely manner.

The City of Oxnard is hereinafter referred to as "City". The firm with professional Engineering Plan Review services is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services listed in the cover letter or as further described in this section.

8.1 PROJECT DESCRIPTION

a) The City is seeking professional Engineering Plan Review services for land development construction plans to assist the City in processing privately financed development engineering construction projects. The services will include all necessary work to review engineering improvement plans (Street, Water, Wastewater, Storm Drain, Signage, Striping, Signal, etc.) and associated calculations and reports (Hydraulics & Hydrology, Wastewater, Water, Geotechnical, etc.) from initial submittal to final recommendation for approval by the City Engineer. Said review may include any of the following:

   i. New Development Construction Submittal Review
   ii. Provide engineering plan check review of grading and utility (water, wastewater, and storm drain) plans for private onsite land development projects. Review would include all onsite private improvements (parking lot and utilities).
   iii. Provide engineering plan check review of grading and utility (water, wastewater, and storm drain), and street plans for public improvements (within right-of-way and easements) that were prepared as a part of a private land development project.
   iv. Review plans and calculations for compliance with the Countywide storm water quality (MS4) permit.
   v. Review and provide comments on drainage, wastewater, and water calculations/reports.
   vi. Review and provide comments on the technical correctness of proposed easement legal descriptions.

b) The Consultant will review all pertinent submittal documents and provide written comments to the City. Consultant would meet with the City and private developer's engineer on an as-needed basis to discuss comments.

c) In performing Engineering Plan Review services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City

d) The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process, and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments. No subcontractors shall be utilized without prior authorization by the City.

e) Below is a sample list of anticipated projects types that are covered by this RFQ. Any prequalified consultant may be selected for one or more of these construction projects, based upon qualifications and availability:

   i. Residential and Commercial Subdivisions
   ii. Commercial Site Developments
   iii. Residential Site Developments

8.2 TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform Engineering Plan Review services on the project types listed above include, but are not limited to:

   i. Review civil improvement plans
   ii. Review Drainage, Water, Wastewater and MS4 Studies
   iii. Review SWPPP submittals
   iv. Review plans for compliance with disabled access requirements
   v. Attend internal and external meetings with staff, developer, and developer's consultant
   vi. Application of state and local laws and ordinances and the City's Municipal Code
   vii. Application of the Subdivision Map Act
   viii. Review of project plans in relation to public impacts/improvements
   ix. Understanding of standard details and specifications from:
      a) Caltrans
      b) Greenbook
      c) APWA
      d) City of Oxnard
      e) County of Ventura

8.3 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5 years' experience providing Engineering Plan Review to municipalities of similar size or sufficient experience with reviewing grading, utility, and pavement plans for private development projects. Specifically, experience should

include, but not be limited to: subdivision maps, development plans, commercial and residential developments and reading and using title reports, etc.

b) Deadlines: A maximum review time for initial review of a project is fifteen (15) business days, not including transit time from and to City of Oxnard. Each subsequent review, if necessary, shall not require more than ten (10) business days, not including transit time.

c) Compliance: Consultant shall comply with all applicable Federal, State and local laws and ordinances. This includes City insurance and indemnification requirements.

d) 4 Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone. Additional reporting may be required as needed.

9.0 CONSTRUCTION MANAGEMENT, INSPECTION AND TESTING

BACKGROUND
The City of Oxnard Public Works Department is requesting a Statement of Qualifications (SOQ) from qualified firms to provide Construction Management, Inspection and Materials Testing (CMIT) services as needed by the City. It is the City's intention to enter into contracts with multiple firms for Construction Management, Inspection and Testing services. The City will be evaluating consultant firms for providing CMIT for various funded projects. By contracting with multiple firms the City will have the flexibility to obtain inspection services in a timely manner.

The successful Consultant(s) will be able to provide the City with full CMIT services including, but not limited to, a Resident Engineer with a Civil Engineering license in the State of California.

The City of Oxnard is hereinafter referred to as "City". The firm with professional CMIT services is hereinafter referred to as "Consultant". Consultant is invited to submit a written SOQ for any or all of the services listed in the cover letter or as further described in section.

9.1 PROJECT DESCRIPTION

The Consultant will be asked to provide all necessary CMIT services as needed by the City. In performing all professional CMIT services, the Consultant shall work to protect the interests of the City and to provide the highest quality services possible for the City. The City has a variety of public works construction projects scheduled within the next two years, as well as private developments requiring public works inspection.

The Consultant is representing itself as a qualified professional in services provided to the City; therefore, it is acceptable to submit recommendations and comments for consideration on format, process, and additional content of providing the services. The City will consider comments and recommendations; however, City is not required to incorporate any of the recommendations or comments. The Consultant should comply with all grant funding or grant administration requirements

including record keeping during construction.

9.2 TYPICAL SERVICES REQUIRED

The required services and abilities required to successfully perform CMIT services on the projects listed above include, but are not limited to:

a) Constructability Review
b) Oversight of Construction Surveying and Material Testing
c) Pre-Job Coordination and Administration Activities
d) Understanding of standard details and specifications from:
    i. Caltrans
    ii. Greenbook
    iii. APWA
    iv. AWWA
    v. City of Oxnard
    vi. County of Ventura
    vii. City of Ventura
e) Experience in documentation of activities through Daily Inspection Logs
f) Construction Safety Orders
g) Best Management Practices
h) Inspection of:
    i. Traffic Control
    ii. Storm Water Prevention Measures
    iii. General Street Construction
    iv. Underground Utility Construction
    v. Traffic Signal Installation
    vi. Landscaping and Irrigation Installation
    vii. Street Striping
    viii. Pipeline installation: sewer, recycled and potable
    ix. Wastewater projects
    x. Water supply projects
    xi. Electrical
    xii. Architectural
    xiii. Major building renovations

i) Ability to work with utilities and public agencies in and adjacent to the City of Oxnard
j) Understanding of environmental regulations relevant to construction activities
k) Knowledge and understanding of the use of and requirements of federal documentation associated with federally-funded projects

9.3 REQUIREMENTS

Consultant(s) shall meet the following requirements:

a) Experience: The Consultant must have a minimum of 5-years' experience providing CMIT services to municipalities of similar size or sufficient experience in CMIT services for similar projects. This shall include working with funding segregation, state and federal funds and grant funds. Specifically, experience should include, but not be limited to all project types listed herein. .

b) Compliance: Consultant shall comply with all applicable Federal, State, and local laws and ordinances. This includes City insurance and indemnification requirements.

c) Reporting: Once per month, the Consultant shall provide the City with an itemized account of all services provided in a format approved by the City. Reports shall include project status by deliverable or milestone and an issues log. Additional reporting may be required as needed.

ATTACHMENT C
EVALUATION PROCESS

All submittals will be evaluated by the City's Selection Committee. The Committee shall be composed of City staff that possess expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposers. The evaluation of the qualification(s) shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the City's Purchasing Department only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by Proposer to contact members of the Committee may jeopardize the integrity of the evaluation and selection process and risk possible disqualification of Proposer.

The Committee will evaluate each submittal meeting the qualification requirements set forth in this RFQ. Consultant(s) should bear in mind that any submittal that is unrealistic in terms of the technical or schedule commitments may be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the City's requirements as set forth in this RFQ.

The selection process may include oral interviews. The Consultant(s) may be notified of the time and place of oral interviews and if any additional information that may be required to be submitted.

Rating Scale		
0	Not Acceptable	Non-responsive, fails to meet RFQ specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of qualification(s).
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFQ.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFQ specification. This will be the baseline score for each item with adjustments based on interpretation of qualification(s) by Evaluation Committee members.

4	Above Average/Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFQ requirements and expectations.
5	Excellent/ Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFQ specification.

No.	Written Evaluation Criteria	Weight
1	Completeness of Response	Pass/Fail
2	Appropriate Professional Licensure	Pass/Fail
3	City-required insurance coverage	Pass/Fail
4	Firm's General Professional Experience	10
5	Firm's Experience for Service Category	40
6	Firm's Experience with Public Agencies	10
7	Qualification, Experience, and Education of Professional Management	20
8	Qualification, Experience, and Education of Professional Staff	20
Subtotal:		**100**

ATTACHMENT D
CERTIFICATION

I, the undersigned, certify and declare I have read and know the contents of the proposal the proposer listed below is submitting to the City of Oxnard ("City"). I certify under penalty of perjury that the preparer(s) of this proposal has/have provided only complete and truthful information to the City in this proposal. I understand that any misrepresentations or material omissions within this proposal will be grounds for potentially disqualifying the proposer or not awarding the contract to the proposer. Additionally, any misrepresentations or material omissions within this proposal are considered breaches of the contract (should the proposer be awarded that contract); the City shall have the right to terminate the contract immediately without consequences, and the City retains all other legal rights available to the City for breach of contract.

I, the undersigned, hereby give permission to the City and its employees and agents to contact references—including those references' officials, employees, and agents (collectively, "References")—of the proposer and its officers, managers, members, general partners, limited partners, or other owners of at least ten percent (10%) of the business, or if the business is a corporation or s-corporation, of its stock (collectively, "Owners"), and request information from other clients—including those clients' officials, employees and agents (collectively, "Other Clients"). I further give permission for the City to review any criminal records of the Owners and obtain public records regarding the Owners, such as records of arrests, indictments, convictions, civil judicial actions, tax liens, and outstanding judgments. I have authority to waive, and I do waive, any and all rights and claims by the proposer, the Owners, and all of their heirs and assigns against the City and its officials, employees and agents, the References, and the Other Clients regarding any actions taken pursuant to, related to or incidental to, the authorization given in this paragraph. Furthermore, I agree that the City and its officers, employees and agents may but have no obligation to share any such information.

I am executing this proposal on behalf of the proposer. I warrant and represent under penalty of perjury that I have the authority to execute this proposal on behalf of the proposer and I have the authority to bind the proposer to the answers provided in this proposal. If any information provided herein becomes inaccurate, I will immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

Date: Proposer's Name

Name, Title and Signature

Name, Title and Signature

The City requires the following: for a corporation or s-corporation, two signatures: (1) the Board President, CEO or Vice President, and (2) the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer; for an LLC, two signatures, both of whom must be managers of the LLC; and for a partnership or limited partnership, the signatures of all partners. If your entity has a different structure, or if the above-listed persons are not the appropriate signers, submit to the City Attorney legally-binding documentation stating who can sign and bind the proposer.

Consultants		Category								
	Amount	Project Management	Engineering	Geotechnical	Traffic Engineering	Surveying	Landscape Architecture and Design	Environmental Planning and Permitting Services	Engineering Plan Review	Construction Management, Inspection and Testing
AECOM	$750,000		X Pass				X Pass			X Pass
Aspen Environmental Group	$250,000							X Pass		
Bureau Veritas	$250,000								X Pass	
COM 3 Consulting	$250,000	X Pass								
Converse Consultants	$250,000			X Pass						
CSG Consultants	$750,000	X Pass	X Pass						X Pass	
Cumming	$250,000	X Fail								X Pass
Dokken Engineering	$250,000		X Pass							
ECG	$500,000		X Pass			X Pass				
Fillipin Engineering	$250,000	X Fail								X Pass
Fugro USA	$250,000			X Pass						
Geocon	$250,000			X Pass						
Huitt Zollars	$500,000		X Pass			X Pass				
Interwest Consulting Group	$1,000,000	X Pass			X Pass				X Pass	X Pass
KEH	$250,000		X Pass							
Kennedy Jenks	$750,000		X Pass					X Pass		X Pass
Kier and Wright	$250,000		X Pass							
Kitchell CEM	$750,000	X Pass	X Pass							X Pass
Leighton Consulting	$250,000			X Pass						
LIN Consulting	$250,000				X Pass					
m6 Consulting	$250,000	X Pass								
Michael Baker International	$250,000					X Pass				
MNS	$750,000		X Pass			X Pass				X Pass
NV5	$1,000,000			X Pass		X Pass			X Pass	X Pass
PCLD	$250,000						X Pass			
Rincon	$250,000							X Pass		
RRM	$250,000		X Pass							
TechnoStruct	$500,000		X Pass						X Pass	
Transystems	$250,000		X Pass					X Fail		
Twining	$250,000			X Pass						
Wallace Group	$1,000,000		X Pass				X Pass		X Pass	X Pass
Yeh and Associates	$250,000			X Pass						
	$13,500,000	**$4,500,000**								

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.10.

DATE: December 3, 2019

TO: City Council

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Appropriate Funds for C Street Bicycle Facilities Installation (Project No. 133103) and Oxnard Boulevard Bicycle Facilities Installation (Project No. 183101).

RECOMMENDATION

That the City Council approve a budget appropriation in the total amount of $169,494 from the fund balance of the Air Pollution Buydown Fee Fund (118) to the following projects: $62,821 for the C Street Bicycle Facilities Installation Project No. 133103, and $106,673 for the Oxnard Boulevard Bicycle Facilities Installation Project No. 183101. (Public Works & Transportation Committee approved 3-0)

BACKGROUND

The C Street Bicycle Facilities Installation project, as identified in the 2019-2024 Capital Improvement Program, will close gaps and connect the City's bicycle network along C Street from Gonzales Road to Hueneme Road, Hill Street from C Street to Novato Drive, and on G Street/Hemlock from Wooley Road to Patterson Road. Scope includes designing approximately nine miles of Class II and III bicycle facilities, signage and striping.

The Oxnard Boulevard Bicycle Facilities Installation project, as identified in the 2019-2024 Capital Improvement Program, will connect the north Oxnard neighborhoods of Riverpark and the Wagon Wheel Village Master Planned Community. Scope includes designing approximately 14,800-feet of class II bicycle lanes in both directions of Oxnard Boulevard from the US 101 to Gonzales Road, approximately 950-feet of new sidewalk on the west side of Oxnard Boulevard from Orchard Place to the Vineyard Plaza shopping center, and design of a new traffic signal at the intersection of Orchard Place and Oxnard Boulevard.

Bikeway types are identified in the City's Bicycle & Pedestrian Facilities Master Plan (Plan). See attachment 8. The Plan refers to the Caltrans Highway Design Manual, which currently defines bikeway types as follows:

Class I Bikeway (Bike Path): Provides a completely separated facility for the exclusive use of bicycles and pedestrians with crossflow by vehicles minimized.

Class II Bikeway (Bike Lane): Provides a striped lane for one-way bike travel on a street or highway.

Class III Bikeway (Bike Route): Provides for shared use with pedestrian or motor vehicle traffic.

Class IV Bikeway (Separated Bikeway): Provides for the exclusive use of bicycles and includes a separation (e.g., grade separation, flexible posts, inflexible physical barrier, or on-street parking) required between the separated bikeway and the through vehicular traffic. (New classification, not included in the 2011 Bicycle & Pedestrian Facilities Master Plan).

DISCUSSION

These projects were advertised for consultants to prepare Plans, Specifications & Estimates (PS&E) on July 15, 2019, with proposals due on August 14, 2019. Staff that consisted of the Project Manager, Traffic Engineer, and City Engineer evaluated proposals for completeness, qualifications & experience, organization & approach, scope of services, schedule of work, conflict of interest, and references.

The City received five proposals for the PW 19-95 C Street Bicycle Facilities Installation project and MNS Engineers, Inc. was selected as the most qualified. The total estimated contract 8789-19-PW is $108,718 and can be executed by the City Manager per the Purchasing Policy. Project is funded in part by a $27,825 federal Congestion Mitigation Air Quality grant (275) and $39,665 of Air Pollution Buydown Fee (118). Total fund (118) expenditures to date are $2,322. Staff is requesting an additional $62,821 from Fund (118). The project qualified for Air Pollution Buydown Fees pursuant to the City's intent to implement reasonable available transportation control measures from the Ventura County Air Quality Management Plan.

The City received four proposals for PW 19-96 Oxnard Boulevard Bicycle Facilities Installation and Huitt-Zollars was selected as the most qualified. The total estimated contract 8790-19-PW is $194,976 and can be executed by the City Manager per the Purchasing Policy. Project is funded in part by a $100,000 federal Congestion Mitigation Air Quality grant (275) and $13,403 of Air Pollution Buydown Fee (118). Total expenditures to date are $5,603. Staff is requesting an additional $106,673 from Fund (118). The project qualified for Air Pollution Buydown Fees pursuant to the City's intent to implement reasonable available transportation control measures from the Ventura County Air Quality Management Plan.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to establish, preserve and improve our infrastructure and natural resources through effective planning, prioritization, and efficient use of available funding. This item supports the following goals and objectives:

Goal 4. Ensure proper construction and maintenance of infrastructure to provide maximum benefit with lowest life cycle cost following CIP plans.
Objective 4a. Implement CIP plans.

FINANCIAL IMPACT

Approval of this recommendation will appropriate a total of $169,494 from the fund balance of Air Pollution Buydown Fee (Fund 118) to the following projects: $62,821 for PW 19-95 C Street Bicycle Facilities Installation (Project No. 133103) and $106,673 for PW 19-96 Oxnard Boulevard Bicycle Facilities Installation (Project No. 183101). The projected FY2019-20 ending unassigned fund balance of Air Pollution Buydown Fee (Fund 118) is $0.92 million after this appropriation request. Detailed funding of the contract amount and estimated staff time per project is as follows:

C Street Bicycle Facilities Installation Project No. 133103:

Fund	Project Number	FY 19-20 Balance Available**	Appropriation Request	Contract 8789-19-PW	Staff Time Project Management
275 – Federal Transportation Grant	133103	$19,425	$0	$19,425	$0

118 – Air Pollution Buydown	133103	$37,343	$62,821	$89,292	$10,871
Total	133103	$56,768	$62,821	$108,718	$10,871

Oxnard Boulevard Bicycle Facilities Installation Project No. 183101:

Fund	Project Number	FY 19-20 Balance Available**	Appropriation Request	Contract 8790-19-PW	Staff Time Project Management
275 – Federal Transportation Grant	183101	$100,000	$0	$100,000	$0
118 – Air Pollution Buydown	183101	$7,800	$106,673	$94,976	$19,497
Total	183101	$107,800	$106,673	$194,976	$19,497

**The FY 19-20 available balances reflect prior staff time charges incurred.

COMMITTEE OUTCOME

The Public Works & Transportation Committee approved 3-0 on November 12, 2019, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Debbie O'Leary, Transportation Planner

ATTACHMENTS

1. BA 8790 & 8789 10.29.19 (1)
2. CA & Consultant Signed Huit Zollars - 8790-19-PW 2019-11-5 Fed & State PW19-96 Rev.1
3. CA & Consultant Signed MNS - 8789-19-PW - 2019-11-5 Fed and State Contract PW119-95 Rev.1
4. Huitt-Zollars Cost Proposal PW19-96 (3)
5. MNS Cost Proposal PW19-95 (2)
6. C Street Project Map (2)
7. Oxnard Blvd Project Location (1) (1)
8. City of Oxnard Bicycle & Pedestrian Facilities Master Plan Bikeway Types

REQUEST FOR BUDGET APPROPRIATION

Department: Public Works **Date:** November 12, 2019

Project/Program Manager: Debbie O'Leary **Phone:** x5283

Reason for Appropriation:

Additional funding required to award contract to consultant for Plans, Specifications and Estimates for project 133103 PW 19-95.; and Project 183101 PW-19-96.

Accounts and Descriptions		AMOUNT
Fund: AIR POLLUTION BUYDOWN FEE (118)		
Expenditures/Transfers Out		
C STREET BICYCLE FACILITIES (Project 133103)		
118-3125.826.84-51	OTHER SERVICES / SERVICES FROM OTHER PROG	13,194
118-3125-826.82-09	CONTRACTS AND SERVICES / SVCS-OTHER PROF/CONTRA	49,627
	Sub-total Expenditures	62,821
Expenditures/Transfers Out		
OXNARD BLVD BIKE LANE (Project 183101)		
118-3124.826.84-51	OTHER SERVICES / SERVICES FROM OTHER PROG	25,050
118-3124-826-82-09	CONTRACTS AND SERVICES / SVCS-OTHER PROF/CONTRACT	81,623
	Sub-total Expenditures	106,673
	Net Change to Fund Balance	**(169,494)**
	Net Appropriation Change	**169,494**

Approvals

Department Director _____

Chief Financial Officer _____

City Manager _____

BA# (Finance Use Only)_____

BA DOC.# (Finance)_____

Revised : 2/23/2012

REQUIRES CITY COUNCIL AUTHORIZATION

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (**"Agreement"**) is made and entered into in the County of Ventura, State of California, this 5th day of November, 2019, by and between the City of Oxnard, a municipal corporation (**"City"**), and Huitt-Zollars, Incorporated (**"Consultant"**). City and Consultant are sometimes individually referred to as **"Party"** and collectively as **"Parties."**

WHEREAS, City desires to hire Consultant to perform certain consulting services specified herein; and

WHEREAS, Consultant represents that Consultant and/or Consultant's personnel have the qualifications and experience to properly perform such services.

NOW, THEREFORE, City and Consultant hereby agree as follows:

1. Scope of Services

Consultant shall furnish City with professional consulting services as more particularly set forth in **Exhibit A** attached hereto and incorporated herein by this reference (the **"Services"** or collectively the **"Project"**). In the event of any conflict between the terms of the Agreement and any exhibits or other incorporated document(s), the terms of the Agreement shall control.

2. Method of Performing Services

Subject to the terms and conditions of this Agreement, Consultant may determine the method, details, and means of performing the Services.

3. Standard of Performance

Consultant shall undertake and complete the Services to conclusion, using that standard of care, skill, and diligence normally provided by a professional person in performance of similar consulting services.

4. Nonexclusive Services

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. Performing such services will not materially interfere with the Services to be performed for the City.

5. Coordination of Services

The Services shall be coordinated with Debbie O'Leary, Transportation Planner (**"Manager"**), subject to the direction of the City Manager or Public Works Director.

6. Place of Work

Consultant shall perform the Services provided for in this Agreement at any place or location and at such times as the Consultant shall determine.

7. 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.

8. Time for Performance

The Services performed under this Agreement shall be completed during the term of this Agreement pursuant to the schedule provided in **Exhibit B** attached hereto and incorporated herein by this reference. City agrees to amend the performance termination date whenever Consultant is delayed by action or inaction of City and Consultant promptly notifies Manager of such delays.

9. Principal in Charge

Consultant hereby designates Kevin Carter as its principal-in-charge and person responsible for necessary coordination with Manager.

10. Permits, Licenses, Certificates

Consultant, at Consultant's sole expense, shall obtain and maintain during the term of this Agreement, all permits, licenses, and certificates required in connection with the performance of the Services, including a City business tax certificate.

11. City's Responsibility

City shall cooperate with Consultant as may be reasonably necessary for Consultant to perform the Services. Manager agrees to provide direction to Consultant as requested regarding particular requirements.

12. Term of Agreement

This Agreement shall begin on November 5, 2019, and expire on November 5, 2022.

13. Termination

This Agreement may be terminated by City for cause or convenience and at no cost to the City if Manager notifies Consultant, in writing, of Manager's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery

or mailing of such notice; however, if the City terminates the Agreement due in any part to a termination or reduction of State or federal funding, the termination shall be effective immediately upon the date of delivery or mailing of such notice. City agrees to pay Consultant in full for all amounts due Consultant for Services successfully rendered, as determined solely by City, as of the effective date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed $194,976 for the Services at rates provided in **Exhibit C** attached hereto and incorporated herein by this reference.

b. The acceptance by Consultant of the final payment made under 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.

c. Payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants 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, its employees, subcontractors, agents and subconsultants.

d. Consultant shall provide Manager with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service.

e. 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.

15. Method of Payment

a. City agrees to pay Consultant monthly upon satisfactory completion of the Services and upon submission by Consultant of an invoice delineating the Services performed, in a form satisfactory to Manager. The invoice shall identify the Services by project as specified by Manager. Consultant waives payment for any item not appearing on an invoice in the month in which such Services were rendered; in any case, Consultant shall not "back-charge" Services performed.

b. City must submit invoices to the granting agencies on its letterhead with its address formatted in accordance with the Local Assistance Procedures. Should City need any documentation or additional information from Consultant in order to submit City's invoices to the granting agencies, Consultant shall provide such documentation or additional information within ten (10) calendar days of the request from the City.

c. Consultant shall maintain current monthly records, books, documents, receipts, papers, accounts and other evidence pertaining to the Services performed and costs incurred.

Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant shall provide Manager with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

d. Consultant must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by Consultant. Consultant agrees to submit supporting backup documentation with invoices if requested by City or State. Acceptable backup documentation includes, but is not limited to, a progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of costs.

e. Consultant agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, *et seq.* and all applicable federal and State laws and regulations shall be used to determine the allowability of individual Project cost items.

16. Responsibility for Expenses

Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services. All expenses incident to the performance of the Services shall be borne by the Consultant, including, but not limited to rent, vehicle, and travel, entertainment and promotion, general liability and health insurance, workers' compensation insurance, and all compensation and benefits of employees or agents engaged by Consultant. Consultant shall, at its own cost and expense, supply all personal property necessary or appropriate to perform the Services provided for under this Agreement, including, but not limited to any personal property used by employees and agents of Consultant in the performance of such Services. Travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the Consultant or its subcontractors.

17. Non-Appropriation of Funds

a. 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 appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

b. Consultant acknowledges that this is a federally and State-funded project. All contractual obligations of both the State and the federal government are subject to the appropriation of resources by the State Legislature and Congress, respectively, and the allocation of resources by various entities, including the California Transportation Commission (CTC) and the United States Department of Transportation. Payments, including those made from City matching funds, to be made to Consultant by City for the Services performed are contingent upon the City receiving all federal and State funding.

c. In the event of the imposition of additional conditions, delays, or a cancellation or reduction in funding, as approved by the Legislature, the CTC or the United States Department of Transportation, Consultant shall be excused from meeting the time and expenditure constraints set forth in the Project Financial Plan and the Project Schedule to the extent of such delay, cancellation or reduction and the Project documents will be amended to reflect the resultant necessary changes in Project funding, scope, or scheduling.

d. Federal and State funds allocated from the State Transportation Improvement Program (STIP) are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and the State, which are incorporated herein by this reference.

18. Records

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data and photographs expressly required to be prepared by Consultant as part of the scope of services (**"documents and materials"**) shall be the property of City and shall, upon completion of the Services or termination of this Agreement, be delivered to Manager.

b. At City's request, City shall be entitled to immediate possession of, and Consultant shall furnish to Manager within ten (10) calendar days, all of the documents and materials. Consultant may retain copies of these documents and materials.

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 uncompleted documents and materials, without the written consent of Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant. City agrees to hold Consultant harmless from all damages, claims, expenses and losses arising out of any reuse of the documents and materials for purposes other than those described in this Agreement, unless Consultant consents in writing to such reuse.

19. Maintenance and Inspection of Records

a. 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 19 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.

b. City and State each reserve the right to conduct technical and financial audits of the work and records and Consultant agrees, and shall require its contractors and subcontractors to agree, to cooperate with City, State or both by making all appropriate and relevant records available for audit and copying as required in section 19(c).

c. Consultant and its contractors and subcontractors shall each maintain and make available for inspection and audit by City, State, the California State Auditor, or any duly authorized representative of State or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement or any subcontractor's agreement related to the Services, including, but not limited to, the costs of administering the Agreement. Consultant shall furnish copies thereof if requested. All of the above-referenced parties shall make such agreements and all contract materials available at their respective offices at all reasonable times during the entire Term and for three (3) years from the date of submission of the final expenditure report by the State to the FHWA.

d. Consultant shall maintain and make available to the City all documents related to the Services, including without limitation engineering, financial and other data, and methodologies and assumptions used in the determination of Project benefits during the course of the Project, and retain those records for four (4) years from the date of the final closeout of the Project. The Transportation Inspector General of the Independent Office of Audits and Investigations has the right to audit records relating to the Project, including technical and financial data, of the Department of Transportation, the State, the City, Consultant, and any sub-consultants at any time during the course of the Project and for four (4) years from the date of the final closeout of the Project. Therefore, all Project records shall be maintained and made available at the time of request. Financial records will be maintained, and audits will be conducted, in accordance with Generally Accepted Government Auditing Standards.

e. City may request Consultant to submit copies of documents or provide other information to the City for use in its submissions to the agencies affiliated with the grant funds, in which case Consultant shall provide such copies or information to the City as fast as possible, but in no case later than ten (10) calendar days thereafter.

20. Monthly or Quarterly Review

Subject to the discretion of State, City and State shall conduct, on a monthly and/or quarterly basis, on-site reviews of all aspects of the progress of the Project. City has already agreed, during each monthly and/or quarterly progress review, to inform the State regarding:

a. Whether the Project is proceeding on schedule and within budget;

b. Any requested changes to the Project Description, Scope of Work, Project Schedule, Overall Funding Plan, or Project Financial Plan contained in documents between the two entities;

c. Major construction accomplishments during the month and/or quarter;

d. Any actual or anticipated problems which could lead to delays in schedule,

increased costs or other difficulties;

e. The status of the Project budget; and

f. The status of critical elements of the Project.

Monthly and/or quarterly reviews of City's progress will include consideration of whether reported implementation activities are within the scope of the Project and in compliance with State laws, regulations, and administrative requirements. Should State or City request any information for any such monthly or quarterly review, Consultant shall immediately turn over such information to the City, or if requested to go elsewhere, with a copy to the City. If any such information is or may be kept by Consultant's contractors and subcontractors, Consultant shall immediately notify all such contractors and subcontractors and ensure they immediately turn over such information to the City, or if requested to go elsewhere, with a copy to the City.

21. Financial System

Consultant, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred costs and matching funds by line item for the Services. The financial management system of Consultant, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by City or State. All accounting records and other supporting papers of Consultant, its contractors and subcontractors connected with Project performance under this Agreement shall be maintained for a minimum of three (3) years and/or bond requirements from the date of final payment to Consultant by the City, or to the City by the grants, whichever is later in time, and shall be held open to inspection, copying, and audit by representatives of State, the California State Auditor, auditors representing the federal government, the City, and auditors representing the City. Copies thereof will be furnished by Consultant, its contractors and subcontractors upon receipt of any request made by any such governmental entity or its agents. In conducting an audit of the costs and match credits claimed under this Agreement, the State, federal government or City will rely to the maximum extent possible on any prior audit of the City pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the City's external and internal auditors may be relied upon and used when planning and conducting additional audits.

22. Confidentiality of Information

Any documents and materials given to or prepared or assembled by Consultant under this Agreement shall be confidential and shall not be made available to any third person or organization by Consultant without prior written approval of the Manager.

23. Hold Harmless, Indemnity and Defense

a. Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, CTC, State, all of their legislative bodies, and all of their officials, officers, employees and agents (the **"Indemnified Party"**) from and against all liabilities regardless of nature, type or cause to the extent that the liabilities arise out of, pertain to, or relate to the negligence,

recklessness, or willful omission or misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, suits, actions, losses, allegations, damages, penalties, fines, and judgments, including but not limited to tortious, contractual, inverse condemnation or other theories or assertions of liability; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution (singularly a **"Claim"** and collectively the **"Claims"**).

b. The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney to the extent required by the paragraph above immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. An allegation or determination that persons other than Consultant (excluding City) are responsible for the liability shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party to the extent required by the paragraph above. The obligation to defend extends through final judgment, including exhaustion of any appeals. 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 the Indemnified Party.

c. For services under both sections 23a and 23b, the review, acceptance or approval of Consultant's work or work product by the Indemnified Party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This Section shall survive completion of the Services or termination of this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

24. Insurance

Consultant shall obtain and maintain during the performance of the Services the insurance coverages as specified in **Exhibit INS-A**, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-A.** Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in **Exhibit INS-A**. Maintenance of proper insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

25. Independent Contractor

a. City and Consultant agree that in the performance of the Services, Consultant shall be, and is, an independent contractor, and that Consultant and its employees are not employees of City. Consultant has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons assisting Consultant.

b. Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations.

c. Consultant acknowledges that Consultant and Consultant's 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, or health, life, dental, long-term disability and workers' compensation insurance benefits.

d. Except as Manager may specify in writing, Consultant, and its agents, employees, subcontractors and subconsultants shall have no authority, expressed or implied, to act on behalf of City in any capacity, as agents or otherwise, or to bind City to any obligation.

26. Conflict of Interest

a. 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.

b. Attached hereto as Exhibit F and incorporated herein by this reference is the Federal Lobbying Activities Certification, which Consultant shall separately sign and submit to the City immediately; this Agreement shall be of no force and effect until Consultant signs and submits the form in Exhibit F to the City.

27. Assignability of Agreement

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. Assignments of any or all rights, duties, or obligations of Consultant under this Agreement will be permitted only with the express written consent of Manager, which consent may be withheld for any reason.

28. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant and City.

29. Fair Employment Practices

a. All persons employed by Consultant shall be treated equally by Consultant without regard to or because of race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law, and in compliance with all antidiscrimination laws of the United States of America, the State of California, and City.

b. During the performance of this Agreement, Consultant and any other parties with whom Consultant may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

c. Consultant shall state in all of its solicitations or advertisements for applicants for employment that all qualified applicants shall receive consideration for employment without regard to their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

d. Consultant shall provide City staff with access to and, upon request by Manager, provide copies to Manager of all of Consultant's records pertaining or relating to Consultant's employment practices, to the extent such records are not confidential or privileged under State or federal law.

e. Consultant shall comply with: (1) section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in federally assisted programs; (2) the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability irrespective of funding; and (3) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

f. Consultant shall comply with the requirements of the Fair Employment Practices Addendum and the Nondiscrimination Assurances, which are attached hereto as Exhibits D and E, respectively, and incorporated herein by this reference. Any agreement entered into by Consultant with a third party for performance of work related to this Agreement shall incorporate these exhibits with third party's name replacing Consultant as essential parts of such agreement to be enforced by that third party as verified by Consultant.

30. Americans with Disabilities Act; Access for Persons with Disabilities

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

b. If disabled access review by the Department of General Services (Division of the State Architect) is required by law for the Project, Consultant shall conform all plans and specifications for such facilities to the provisions of California Government Code sections 4450

and 4454 as well as Title 24 of the California Code of Regulations.

31. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended

Consultant shall comply with, ensure subcontractors comply with, and draft plans and specifications in accordance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the federal government and the Regional Office of the Environmental Protection Agency (EPA).

32. Energy Efficiency

Consultant shall comply with, ensure subcontractors comply with, and draft plans and specifications in accordance with mandatory standards and policies relating to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

33. Force Majeure

Consultant and City agree that 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 not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

34. Time of Essence

Consultant and City agree that time is of the essence in regard to performance of any of the terms and conditions of this Agreement.

35. Covenants and Conditions

Consultant and City agree that each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

36. Governing Law

City and Consultant agree that the construction and interpretation of this Agreement and the rights and duties of City and Consultant hereunder shall be governed by the laws of the State of California.

37. Compliance with Laws

a. Consultant shall comply with, and shall ensure its subcontractors and vendors comply with, all City, State, and federal ordinances, laws, statutes, regulations (including Title

23 Code of Federal Regulation [**"CFR"**] and 2 CFR Part 200), policies and procedures (including those set forth in the California Project Development Procedures Manual, Highway Design Manual, Local Assistance Procedures Manual and the Local Assistance Program Guidelines and all procedural and instructional memoranda as well as the California Transportation Commission SB1 Accountability and Transparency Guidelines), now or hereafter in force pertaining to the Services performed by Consultant pursuant to this Agreement.

b. Consultant shall comply with, and shall ensure its subcontractors and vendors comply with, 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code [**"PCC"**] 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable State and federal regulations. Any costs for which Consultant has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable State and federal regulations, are subject to repayment by Consultant to City, even if Consultant has already expended such funds on subcontractors. Should Consultant fail to refund any moneys due upon written demand by City as provided hereunder, or should Consultant breach this Agreement by failing to complete Services without adequate justification and approval by City, then, within ten (10) calendar days of demand, or within such other period as may be agreed to in writing between the parties, City may withhold or demand a transfer of an amount equal to the amount paid by or owed to City from future apportionments, or any other funds due Consultant, and/or may withhold approval of future Consultant projects with the City.

c. Consultant is to comply with, and ensure its subconsultants and subcontractors comply with, all CTC resolutions as adopted or currently amended as well as the guidelines, and policies applicable to State- funded programs (or projects) including, but not limited to, Section 190, State Highway Account, Public Transportation Account, Proposition I8, Proposition IA, and the Road Repair and Accountability Act of 2017, respectively.

38. Debarment

Consultant certifies that neither it nor its principals are suspended or debarred at the time of the execution of this Agreement and are not listed on the government wide Excluded Parties List System in the System for Award Management (SAM). Consultant agrees that it will notify City immediately in the event a suspension or a debarment occurs after the execution of this Agreement.

39. Severability

City and Consultant agree that the invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

40. Waiver

City and Consultant agree that no waiver of a breach of any provision of this Agreement by either Consultant or City shall constitute a waiver of any other breach of the same provision or any other provision of this Agreement. Failure of either City or Consultant to

enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

41. 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 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.

42. Arbitration

Consultant and City agree that in the event of any dispute with regard to the provisions of this Agreement, the Services rendered or the amount of Consultant's compensation, the dispute may be submitted to non-binding arbitration upon the mutual agreement of the parties, under such procedures as the parties may agree upon, or, if the parties cannot agree, then under the Rules of the American Arbitration Association.

43. Expenses of Enforcement

Consultant and City agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney Office) and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

44. Authority to Execute

a. City acknowledges that the person executing this Agreement has been duly authorized by the City Council to do so on behalf of City.

b. Consultant acknowledges that the person executing this Agreement has been duly authorized by Consultant to do so on behalf of Consultant.

45. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to 90 E. Thousand Oaks Blvd., Suite 201, Thousand Oaks, CA 91360-5757.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Transportation Division, 305 West Third Street, East Wing Second Floor, Oxnard, California 93030, Attention: Debbie O'Leary.

46. Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

47. Entire Agreement

City and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

CITY OF OXNARD

Alexander Nguyen, City Manager — Date

ATTEST:

N/A

Michelle Ascencion, City Clerk (only if Mayor signs) — Date

APPROVED AS TO FORM:

10-10-19

Stephen M. Fischer, City Attorney — Date

HUITT-ZOLLARS, INCORPORATED

10/10/2019

Kevin Carter, Vice President — Date

10/11/2019

John Anthony Sosebee, Secretary — Date
Sr. Vice President

46. Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

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CITY OF OXNARD

Alexander Nguyen, City Manager — Date

ATTEST:

N/A

Michelle Ascencion, City Clerk (only if Mayor signs) — Date

APPROVED AS TO FORM:

10-10-19

Stephen M. Fischer, City Attorney — Date

HUITT-ZOLLARS, INCORPORATED

Kevin Carter, Vice President — Date

John Anthony Sosebee, Secretary — Date

EXHIBIT A

SCOPE OF SERVICES

TASK 1 – PRELIMINARY INVESTIGATION AND DESIGN

Task 1.01 – Project Work Plan and Schedule

Huitt-Zollars will utilize the Project Milestone Schedule through the design phase of the project.

Huitt-Zollars will also produce a Work Plan for the kick-off meeting with City staff. The Work Plan will include the project scope, design issues, Consultant team and City Staff responsibilities, the Project Schedule, a List and Delineation of Deliverables, a Quality Assurance and Control Plan, Design Budgets and Design Criteria/Codes/Standards/Constraints. The Work Plan is not anticipated to be updated after the kick off meeting. The schedule can be updated once during the project at the City's request.

Deliverables: Project Schedule and Project Work Plan.

Task 1.02 – Project Kick-Off Meeting

Huitt–Zollars will prepare for and conduct the project kick-off meeting at the City offices. Huitt-Zollars will present the project work plan and schedule for discussion. The design team (HZ and City staff) will discuss the design parameters and site challenges. The city will provide contact information and roles for the key design decision makers. Huitt-Zollars will prepare meeting notes for distribution.

Deliverable: Meeting Notes, Project Work Plan, Project Schedule.

Task 1.03 – Field Reconnaissance

Huitt–Zollars will field review existing conditions and identify major potential issues relative to constructability, grading and drainage, safety, ADA compliance, utility conflicts and possible existing utility room and communications issues. Yeh and Associates will drill up to three borings along the sidewalk alignment for the necessary retaining wall. Yeh will provide a report with design parameters for the retaining wall.

Deliverable: Findings incorporated into the topography and design. Geotechnical Report for Retaining Wall.

Task 1.04 – Civil Research and Investigation

Huitt-Zollars will gather and map public utility information and utility company records (gas, cable, electrical, telecommunications, sewer, water and storm drain) to ensure the utility information included in the design plans is as accurate as public records allow and further identify potential challenges, conflicts and opportunities. Franchise utility letters and/or e-mail correspondence for gas, cable, electrical, and telecommunications will be sent to the City Project Manager, who will then review and send to the utility companies requesting record information for mapping. This does not include field underground investigation such as potholes, ground penetration radar and electromagnetic locating. To streamline the design time, this effort will only be undertaken for areas where excavation will occur. Huitt-Zollars will collect record drawings from the City of all existing traffic signals for modification. The record drawings will be the basis for the modification design.

Deliverable: Findings incorporated into the topography and design.

Task 1.05 – Survey Research and Design Survey

Huitt-Zollars will use the City's GIS data supplemented with the prior survey information Huitt-Zollars has from their work on the Oxnard Village development, further augmented by localized field surveys where hard improvements will be constructed. This process will have the benefit of streamlining the cost and time of survey.

Huitt-Zollars will research at the City of Oxnard and Ventura County Department of Public Works survey records information to generate an alignment to be used for survey control. The Basis of Bearings for the project will be based on recorded subdivision mapping in the area. The vertical datum (NAVD 88) will be based on the Ventura County Department of Public Works Benchmarks and Huitt-Zollars will tie into the closest vertical Benchmark.

A. Design Survey

Huitt-Zollars will provide partial cross-sections, at 25-foot intervals, for the median realignment and sidewalk installation areas. The cross sections will extend from adjacent lane line to the Right of Way and will include shots at the top of curb, gutter flow line, edge of pavement, striping, sidewalk and any existing utilities within the street.

B. Right-of-Way Engineering

Huitt-Zollars will define a "Control Line," for Oxnard Boulevard that will be based upon found survey monuments, together with existing and proposed improvements. This "Control Line" will then be used to confirm the existing right-of-way and to determine if right-of-way acquisition is necessary.

Deliverable: Collected Field Survey data in CAD and/or PDF format.

Task 1.06 – Develop Preliminary 30% Design Concept and Estimate

Huitt-Zollars will merge all the gathered information with the information provided by the City to develop the preliminary design concept to 30% plans. Huitt-Zollars will balance the City's standards with the MUTCD and the grant scope with the construction cost.

Once the preliminary design and budget have been generated, Huitt-Zollars will meet and discuss with the City and agree on the path forward. Once the preliminary design is accepted by the City and Caltrans grant administrator, Huitt-Zollars can meet with Caltrans for permitting.

Deliverable: Findings incorporated into the topography and design.

TASK 2 – CONSTRUCTION DOCUMENTS

Task 2.01 – Prepare 60% Design Documents

Huitt-Zollars will incorporate comments from the 30% submittal and further develop the PS&E to 60%. Yeh & Associates will provide a geotechnical investigation for the design of select roadway improvements along approximately 14,800 feet of Oxnard Boulevard. The scope of Huitt-Zollars geotechnical services for this project will focus on design of a proposed retaining wall up to 4-feet high that will be needed along an approximately 950-foot segment between Orchard Place and the Vineyard Plaza shopping center to accommodate new sidewalk. Civil Research and Investigation coring and subgrade evaluation along limited segments of the project, where new pavement design sections are needed. Yeh's scope of services assume that the proposed project will not require design modifications to existing food control facilities or bridge abutment walls located near the project site.

Anticipated Plan Sheet List (40 scale):

Title Sheet - 1
Typical Sections - 1
Striping Plan (double strip) - 4
Plan & Profile - 3
Storm Drain Plan/Profile - 1
Retaining Wall Plan - 3

Detail Sheet - 1
Orchard Traffic Signal - 2
Traffic Signal Modifications (3 locations) - 3
Total Sheets - 19
Deliverable: 60% Plans, Specifications & Estimate submitted to City.

Task 2.02 – Prepare 95% Design Documents

Huitt-Zollars will incorporate comments from the 60% submittal and further develop the PS&E to 95%.

Deliverable: 95% Plans, Specifications & Estimate submitted to City/Caltrans.

Task 2.03 – Prepare 100% Design Documents

Deliverable: Final Plans, Specifications and Estimate for Bidding.

Task 2.04 – Construction Authorization

Huitt-Zollars will assist the City in obtaining Caltrans Encroachment Permit and Construction Authorization from the Local Assistance Engineer at Caltrans.

Deliverable: Caltrans Encroachment Permit application, Construction Authorization application & 7 sets of plans.

TASK 3 – BID PERIOD SUPPORT

Task 3.01 – Project Work Plan and Schedule

Bidding phase support services are provided on an as-needed basis at the direction of the client. Huitt-Zollars is available to support the City, as requested, in completing some or all of the following tasks:

1. Responding to bidders questions

Deliverables: Responses to questions, as requested.

TASK 4 – CONSTRUCTION SUPPORT

Task 4.01 – Project Work Plan and Schedule

Huitt-Zollars will assist the City on an as-needed basis at the direction of the client during project construction. Huitt-Zollars is available to support the City, as requested, in completing some or all of the following tasks:

1. Attending Pre-Construction Meeting

2. Attending Site Construction Meetings

3. Reviewing Shop Drawings and Submittals

4. Responding to Contractor's Requests for Information

5. Providing periodic field observations during construction

6. Interacting with Material Testing Consultants

7. Preparing Record Drawings

Deliverables: Meeting minutes, responses to RFI, Field Reports, as requested.

EXHIBIT B

SCHEDULE OF SERVICES

Time is of the essence for this project due to the Caltrans Congestion Mitigation Air Quality (CMAQ) grant funding. The City intends to issue the Notice to Proceed (NTP) to the selected Consultant after City Council action in November 2019. The Consultant shall begin work as soon as the NTP is issued. City anticipates a construction bid-ready PS&E package to be completed within six (6) months of the NTP.

Consultant shall produce a delivery schedule as part of TASK 1.01 Project Work Plan and Schedule.

EXHIBIT C
COMPENSATION RATES
(see attached tables that follow)

* In any case, payments to Consultant for related travel and subsistence (per diem) expenses of Consultant forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file State employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by Consultant are in excess of DPA rates, Consultant is responsible for the cost difference, and any overpayments inadvertently paid by City shall be reimbursed to City by Consultant on demand within thirty (30) days of such invoice.

EXHIBIT INS-A

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 (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. 8790-19-PW
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

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.

10/19

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/ $500,000 & listed sub-consultant

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

CERTIFICATE HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No. 8790-19-PW
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

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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
Attn: Insurance Compliance
Reference No. 8790-19-PW
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: _____

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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
Attn: Insurance Compliance
Reference No. 8790-19-PW
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 _____

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EXHIBIT D

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant and its subconsultants and subcontractors will not discriminate, harass or allow harassment against any employee or applicant for employment because of race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Consultant will take affirmative action to ensure that employees are treated during employment without regard to their race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; evaluation; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and general treatment. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by State setting forth the provisions of this Fair Employment section.

2. Consultant, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq. and 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapters 5 of Divisions 4 and 4.1 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and each of its subconsultants and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other agreements, as appropriate.

3. Consultant shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. Consultant will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, State shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by State in securing the goods or services thereunder shall be borne and paid for by Consultant and by the surety under the performance bond, if any, and State may deduct from any moneys due or thereafter may become due to Consultant, the difference between the price named in the Agreement and the actual cost thereof to State to cure Consultant's breach of this Agreement.

EXHIBIT E

NONDISCRIMINATION ASSURANCES

CONSULTANT HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the State, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C.

2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the Regulations), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Consultant receives federal financial assistance from the Federal Department of Transportation. CONSULTANT HEREBY GIVES ASSURANCE THAT CONSULTANT will promptly take any measures necessary to effectuate this Agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations.

More specifically, and without limiting the above general assurance, Consultant hereby gives the following specific assurances with respect to its federal-aid Program:

1. That Consultant agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That Consultant shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the federal-aid program and, in adapted form, in all proposals for negotiated agreements:

Consultant hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That Consultant shall insert the clauses of Appendix A of this assurance in every agreement subject to the Act and the Regulations.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where Consultant receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where Consultant receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That Consultant shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Consultant with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-

aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid program.

8. That this assurance obligates Consultant for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates Consultant or any transferee for the longer of the following periods:

(a) the period during which the property 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; or

(b) the period during which Consultant retains ownership or possession of the property.

9. That Consultant shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that Consultant, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, the Regulations, this Assurance and the Agreement.

10. That Consultant agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

11. Consultant shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any State assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. Consultant shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of State assisted contracts. Consultant's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved DBE Implementation Agreement, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 *et seq.*)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to Consultant by State, acting for the U.S. Department of Transportation, and is binding on Consultant, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

Appendices A through D are attached hereto and incorporated herein by this reference.

Agreement No.

8790-19-PW

APPENDIX A TO EXHIBIT E

During the performance of this Agreement, Consultant, for itself, its assignees and successors in interest (hereinafter collectively referred to as Consultant) agrees as follows:

(1) Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to Consultant's books, records, accounts, other sources of information, and its facilities as may be determined by State or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to State or the FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, State shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: Consultant shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any sub-agreement or procurement as State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request State enter into such litigation to protect the interests of State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO EXHIBIT E

The following clauses shall be included in any and all deeds effecting or recording the transfer of Project real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that Consultant will accept title to the lands and maintain the Project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Consultant all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit D attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Consultant and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on Consultant, its successors and assigns.

Consultant, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and)*

(2) that Consultant shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended(;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the

U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said · land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO EXHIBIT E

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by Consultant, pursuant to the provisions of Assurance 7(a) of Exhibit E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said {license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to re-enter said land and facilities thereon, and the above- described lands and facilities shall thereupon revert to and vest in and become the absolute property of Consultant and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO EXHIBIT E

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Consultant, pursuant to the provisions of Assurance 7(b) of Exhibit E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said {license, lease, permit, etc.) had never been made or issued.

{Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to re-enter said land and facilities thereon, and the above- described lands and facilities shall thereupon revert to and vest in and become the absolute property of Consultant, and its assigns.

* Reverter clause and related language to be used only when ii is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

EXHIBIT F

FEDERAL LOBBYING ACTIVITIES CERTIFICATION

1. The undersigned certifies, to the best of his or her knowledge and belief, that:

a. No federal or state appropriated funds have been paid or will be paid, by or on behalf of Consultant or the undersigned, to any person for influencing or attempting to influence an officer or employee of any State or federal agency, a member of the State Legislature or United States Congress, an officer or employee of the State Legislature or Congress, or any employee of a Member of the State Legislature or Congress in connection with the awarding of any State or federal contract, including this Agreement, the making of any State or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any State or federal contract, grant, loan, or cooperative contract.

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 federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Agreement, grant, local, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

2. The undersigned shall require that the language of this certification be included in all lower tier sub-agreements and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, United States Code. Any party 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.

Consultant:

Name: _____ Title: _____

Signature: _____ Date: _____

Name: _____ Title: _____

Signature: _____ Date: _____

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (**"Agreement"**) is made and entered into in the County of Ventura, State of California, this 5th day of November, 2019, by and between the City of Oxnard, a municipal corporation (**"City"**), and MNS Engineers, Inc. (**"Consultant"**). City and Consultant are sometimes individually referred to as **"Party"** and collectively as **"Parties."**

WHEREAS, City desires to hire Consultant to perform certain consulting services specified herein; and

WHEREAS, Consultant represents that Consultant and/or Consultant's personnel have the qualifications and experience to properly perform such services.

NOW, THEREFORE, City and Consultant hereby agree as follows:

1. Scope of Services

Consultant shall furnish City with professional consulting services as more particularly set forth in **Exhibit A** attached hereto and incorporated herein by this reference (the **"Services"** or collectively the **"Project"**). In the event of any conflict between the terms of the Agreement and any exhibits or other incorporated document(s), the terms of the Agreement shall control.

2. Method of Performing Services

Subject to the terms and conditions of this Agreement, Consultant may determine the method, details, and means of performing the Services.

3. Standard of Performance

Consultant shall undertake and complete the Services to conclusion, using that standard of care, skill, and diligence normally provided by a professional person in performance of similar consulting services.

4. Nonexclusive Services

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. Performing such services will not materially interfere with the Services to be performed for the City.

5. Coordination of Services

The Services shall be coordinated with Debbie O'Leary, Transportation Planner (**"Manager"**), subject to the direction of the City Manager or Public Works Director.

6. Place of Work

Consultant shall perform the Services provided for in this Agreement at any place or location and at such times as the Consultant shall determine.

7. 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.

8. Time for Performance

The Services performed under this Agreement shall be completed during the term of this Agreement pursuant to the schedule provided in **Exhibit B** attached hereto and incorporated herein by this reference. City agrees to amend the performance termination date whenever Consultant is delayed by action or inaction of City and Consultant promptly notifies Manager of such delays.

9. Principal in Charge

Consultant hereby designates Michael Ip as its principal-in-charge and person responsible for necessary coordination with Manager.

10. Permits, Licenses, Certificates

Consultant, at Consultant's sole expense, shall obtain and maintain during the term of this Agreement, all permits, licenses, and certificates required in connection with the performance of the Services, including a City business tax certificate.

11. City's Responsibility

City shall cooperate with Consultant as may be reasonably necessary for Consultant to perform the Services. Manager agrees to provide direction to Consultant as requested regarding particular requirements.

12. Term of Agreement

This Agreement shall begin on November 5, 2019, and expire on November 5, 2022.

13. Termination

This Agreement may be terminated by City for cause or convenience and at no cost to the City if Manager notifies Consultant, in writing, of Manager's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery

or mailing of such notice; however, if the City terminates the Agreement due in any part to a termination or reduction of State or federal funding, the termination shall be effective immediately upon the date of delivery or mailing of such notice. City agrees to pay Consultant in full for all amounts due Consultant for Services successfully rendered, as determined solely by City, as of the effective date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed $108,718 for the Services at rates provided in **Exhibit C** attached hereto and incorporated herein by this reference.

b. The acceptance by Consultant of the final payment made under 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.

c. Payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants 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, its employees, subcontractors, agents and subconsultants.

d. Consultant shall provide Manager with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service.

e. 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.

15. Method of Payment

a. City agrees to pay Consultant monthly upon satisfactory completion of the Services and upon submission by Consultant of an invoice delineating the Services performed, in a form satisfactory to Manager. The invoice shall identify the Services by project as specified by Manager. Consultant waives payment for any item not appearing on an invoice in the month in which such Services were rendered; in any case, Consultant shall not "back-charge" Services performed.

b. City must submit invoices to the granting agencies on its letterhead with its address formatted in accordance with the Local Assistance Procedures. Should City need any documentation or additional information from Consultant in order to submit City's invoices to the granting agencies, Consultant shall provide such documentation or additional information within ten (10) calendar days of the request from the City.

c. Consultant shall maintain current monthly records, books, documents, receipts, papers, accounts and other evidence pertaining to the Services performed and costs incurred.

Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant shall provide Manager with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

d. Consultant must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by Consultant. Consultant agrees to submit supporting backup documentation with invoices if requested by City or State. Acceptable backup documentation includes, but is not limited to, a progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of costs.

e. Consultant agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, *et seq.* and all applicable federal and State laws and regulations shall be used to determine the allowability of individual Project cost items.

16. Responsibility for Expenses

Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services. All expenses incident to the performance of the Services shall be borne by the Consultant, including, but not limited to rent, vehicle, and travel, entertainment and promotion, general liability and health insurance, workers' compensation insurance, and all compensation and benefits of employees or agents engaged by Consultant. Consultant shall, at its own cost and expense, supply all personal property necessary or appropriate to perform the Services provided for under this Agreement, including, but not limited to any personal property used by employees and agents of Consultant in the performance of such Services. Travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the Consultant or its subcontractors.

17. Non-Appropriation of Funds

a. 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 appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

b. Consultant acknowledges that this is a federally- and State-funded project. All contractual obligations of both the State and the federal government are subject to the appropriation of resources by the State Legislature and Congress, respectively, and the allocation of resources by various entities, including the California Transportation Commission (CTC) and the United States Department of Transportation. Payments, including those made from City matching funds, to be made to Consultant by City for the Services performed are contingent upon the City receiving all federal and State funding.

c. In the event of the imposition of additional conditions, delays, or a cancellation or reduction in funding, as approved by the Legislature, the CTC or the United States Department of Transportation, Consultant shall be excused from meeting the time and expenditure constraints set forth in the Project Financial Plan and the Project Schedule to the extent of such delay, cancellation or reduction and the Project documents will be amended to reflect the resultant necessary changes in Project funding, scope, or scheduling.

d. Federal and State funds allocated from the State Transportation Improvement Program (STIP) are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and the State, which are incorporated herein by this reference.

18. Records

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data and photographs expressly required to be prepared by Consultant as part of the scope of services (**"documents and materials"**) shall be the property of City and shall, upon completion of the Services or termination of this Agreement, be delivered to Manager.

b. At City's request, City shall be entitled to immediate possession of, and Consultant shall furnish to Manager within ten (10) calendar days, all of the documents and materials. Consultant may retain copies of these documents and materials.

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 uncompleted documents and materials, without the written consent of Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant. City agrees to hold Consultant harmless from all damages, claims, expenses and losses arising out of any reuse of the documents and materials for purposes other than those described in this Agreement, unless Consultant consents in writing to such reuse.

19. Maintenance and Inspection of Records

a. 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 19 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.

b. City and State each reserve the right to conduct technical and financial audits of the work and records and Consultant agrees, and shall require its contractors and subcontractors to agree, to cooperate with City, State or both by making all appropriate and relevant records available for audit and copying as required in section 19(c).

c. Consultant and its contractors and subcontractors shall each maintain and make available for inspection and audit by City, State, the California State Auditor, or any duly authorized representative of State or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement or any subcontractor's agreement related to the Services, including, but not limited to, the costs of administering the Agreement. Consultant shall furnish copies thereof if requested. All of the above-referenced parties shall make such agreements and all contract materials available at their respective offices at all reasonable times during the entire Term and for three (3) years from the date of submission of the final expenditure report by the State to the FHWA.

d. Consultant shall maintain and make available to the City all documents related to the Services, including without limitation engineering, financial and other data, and methodologies and assumptions used in the determination of Project benefits during the course of the Project, and retain those records for four (4) years from the date of the final closeout of the Project. The Transportation Inspector General of the Independent Office of Audits and Investigations has the right to audit records relating to the Project, including technical and financial data, of the Department of Transportation, the State, the City, Consultant, and any sub-consultants at any time during the course of the Project and for four (4) years from the date of the final closeout of the Project. Therefore, all Project records shall be maintained and made available at the time of request. Financial records will be maintained, and audits will be conducted, in accordance with Generally Accepted Government Auditing Standards.

e. City may request Consultant to submit copies of documents or provide other information to the City for use in its submissions to the agencies affiliated with the grant funds, in which case Consultant shall provide such copies or information to the City as fast as possible, but in no case later than ten (10) calendar days thereafter.

20. Monthly or Quarterly Review

Subject to the discretion of State, City and State shall conduct, on a monthly and/or quarterly basis, on-site reviews of all aspects of the progress of the Project. City has already agreed, during each monthly and/or quarterly progress review, to inform the State regarding:

a. Whether the Project is proceeding on schedule and within budget;

b. Any requested changes to the Project Description, Scope of Work, Project Schedule, Overall Funding Plan, or Project Financial Plan contained in documents between the two entities;

c. Major construction accomplishments during the month and/or quarter;

d. Any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties;

e. The status of the Project budget; and

f. The status of critical elements of the Project.

Monthly and/or quarterly reviews of City's progress will include consideration of whether reported implementation activities are within the scope of the Project and in compliance with State laws, regulations, and administrative requirements. Should State or City request any information for any such monthly or quarterly review, Consultant shall immediately turn over such information to the City, or if requested to go elsewhere, with a copy to the City. If any such information is or may be kept by Consultant's contractors and subcontractors, Consultant shall immediately notify all such contractors and subcontractors and ensure they immediately turn over such information to the City, or if requested to go elsewhere, with a copy to the City.

21. Financial System

Consultant, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred costs and matching funds by line item for the Services. The financial management system of Consultant, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by City or State. All accounting records and other supporting papers of Consultant, its contractors and subcontractors connected with Project performance under this Agreement shall be maintained for a minimum of three (3) years and/or bond requirements from the date of final payment to Consultant by the City, or to the City by the grants, whichever is later in time, and shall be held open to inspection, copying, and audit by representatives of State, the California State Auditor, auditors representing the federal government, the City, and auditors representing the City. Copies thereof will be furnished by Consultant, its contractors and subcontractors upon receipt of any request made by any such governmental entity or its agents. In conducting an audit of the costs and match credits claimed under this Agreement, the State, federal government or City will rely to the maximum extent possible on any prior audit of the City pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the City's external and internal auditors may be relied upon and used when planning and conducting additional audits.

22. Confidentiality of Information

Any documents and materials given to or prepared or assembled by Consultant under this Agreement shall be confidential and shall not be made available to any third person or organization by Consultant without prior written approval of the Manager.

23. Hold Harmless, Indemnity and Defense

a. Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, CTC, State, all of their legislative bodies, and all of their officials, officers, employees and agents (the **"Indemnified Party"**) from and against all liabilities regardless of nature, type or

cause to the extent that the liabilities arise out of, pertain to, or relate to the negligence, recklessness, or willful omission or misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, suits, actions, losses, allegations, damages, penalties, fines, and judgments, including but not limited to tortious, contractual, inverse condemnation or other theories or assertions of liability; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution (singularly a **"Claim"** and collectively the **"Claims"**).

b. The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney to the extent required by the paragraph above immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. An allegation or determination that persons other than Consultant (excluding City) are responsible for the liability shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party to the extent required by the paragraph above. The obligation to defend extends through final judgment, including exhaustion of any appeals. 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 the Indemnified Party.

c. For services under both sections 23a and 23b, the review, acceptance or approval of Consultant's work or work product by the Indemnified Party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This Section shall survive completion of the Services or termination of this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

24. Insurance

Consultant shall obtain and maintain during the performance of the Services the insurance coverages as specified in **Exhibit INS-A**, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-A.** Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in **Exhibit INS-A**. Maintenance of proper insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

25. Independent Contractor

a. City and Consultant agree that in the performance of the Services, Consultant shall be, and is, an independent contractor, and that Consultant and its employees are not employees of City. Consultant has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons assisting Consultant.

b. Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations.

c. Consultant acknowledges that Consultant and Consultant's 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, or health, life, dental, long-term disability and workers' compensation insurance benefits.

d. Except as Manager may specify in writing, Consultant, and its agents, employees, subcontractors and subconsultants shall have no authority, expressed or implied, to act on behalf of City in any capacity, as agents or otherwise, or to bind City to any obligation.

26. Conflict of Interest

a. 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.

b. Attached hereto as Exhibit F and incorporated herein by this reference is the Federal Lobbying Activities Certification, which Consultant shall separately sign and submit to the City immediately; this Agreement shall be of no force and effect until Consultant signs and submits the form in Exhibit F to the City.

27. Assignability of Agreement

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. Assignments of any or all rights, duties, or obligations of Consultant under this Agreement will be permitted only with the express written consent of Manager, which consent may be withheld for any reason.

28. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant and City.

29. Fair Employment Practices

a. All persons employed by Consultant shall be treated equally by Consultant without regard to or because of race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law, and in compliance with all antidiscrimination laws of the United States of America, the State of California, and City.

b. During the performance of this Agreement, Consultant and any other parties with whom Consultant may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

c. Consultant shall state in all of its solicitations or advertisements for applicants for employment that all qualified applicants shall receive consideration for employment without regard to their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

d. Consultant shall provide City staff with access to and, upon request by Manager, provide copies to Manager of all of Consultant's records pertaining or relating to Consultant's employment practices, to the extent such records are not confidential or privileged under State or federal law.

e. Consultant shall comply with: (1) section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in federally assisted programs; (2) the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability irrespective of funding; and (3) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

f. Consultant shall comply with the requirements of the Fair Employment Practices Addendum and the Nondiscrimination Assurances, which are attached hereto as Exhibits D and E, respectively, and incorporated herein by this reference. Any agreement entered into by Consultant with a third party for performance of work related to this Agreement shall incorporate these exhibits with third party's name replacing Consultant as essential parts of such agreement to be enforced by that third party as verified by Consultant.

30. Americans with Disabilities Act; Access for Persons with Disabilities

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

b. If disabled access review by the Department of General Services (Division of the State Architect) is required by law for the Project, Consultant shall conform all plans and

specifications for such facilities to the provisions of California Government Code sections 4450 and 4454 as well as Title 24 of the California Code of Regulations.

31. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended

Consultant shall comply with, ensure subcontractors comply with, and draft plans and specifications in accordance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the federal government and the Regional Office of the Environmental Protection Agency (EPA).

32. Energy Efficiency

Consultant shall comply with, ensure subcontractors comply with, and draft plans and specifications in accordance with mandatory standards and policies relating to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

33. Force Majeure

Consultant and City agree that 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 not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

34. Time of Essence

Consultant and City agree that time is of the essence in regard to performance of any of the terms and conditions of this Agreement.

35. Covenants and Conditions

Consultant and City agree that each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

36. Governing Law

City and Consultant agree that the construction and interpretation of this Agreement and the rights and duties of City and Consultant hereunder shall be governed by the laws of the State of California.

37. Compliance with Laws

a. Consultant shall comply with, and shall ensure its subcontractors and vendors

comply with, all City, State, and federal ordinances, laws, statutes, regulations (including those set forth in the California Project Development Procedures Manual, Highway Design Manual, Local Assistance Procedures Manual and the Local Assistance Program Guidelines and all procedural and instructional memoranda as well as the California Transportation Commission SB1 Accountability and Transparency Guidelines), now or hereafter in force pertaining to the Services performed by Consultant pursuant to this Agreement.

b. Consultant shall comply with, and shall ensure its subcontractors and vendors comply with, 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code [**"PCC"**] 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable State and federal regulations. Any costs for which Consultant has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable State and federal regulations, are subject to repayment by Consultant to City, even if Consultant has already expended such funds on subcontractors. Should Consultant fail to refund any moneys due upon written demand by City as provided hereunder, or should Consultant breach this Agreement by failing to complete Services without adequate justification and approval by City, then, within ten (10) calendar days of demand, or within such other period as may be agreed to in writing between the parties, City may withhold or demand a transfer of an amount equal to the amount paid by or owed to City from future apportionments, or any other funds due Consultant, and/or may withhold approval of future Consultant projects with the City.

c. Consultant is to comply with, and ensure its subconsultants and subcontractors comply with, all CTC resolutions as adopted or currently amended as well as the guidelines, and policies applicable to State- funded programs (or projects) including, but not limited to, Section 190, State Highway Account, Public Transportation Account, Proposition I8, Proposition IA, and the Road Repair and Accountability Act of 2017, respectively.

38. Debarment

Consultant certifies that neither it nor its principals are suspended or debarred at the time of the execution of this Agreement and are not listed on the government wide Excluded Parties List System in the System for Award Management (SAM). Consultant agrees that it will notify City immediately in the event a suspension or a debarment occurs after the execution of this Agreement.

39. Severability

City and Consultant agree that the invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

40. Waiver

City and Consultant agree that no waiver of a breach of any provision of this Agreement by either Consultant or City shall constitute a waiver of any other breach of the same provision or any other provision of this Agreement. Failure of either City or Consultant to

enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

41. 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 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.

42. Arbitration

Consultant and City agree that in the event of any dispute with regard to the provisions of this Agreement, the Services rendered or the amount of Consultant's compensation, the dispute may be submitted to non-binding arbitration upon the mutual agreement of the parties, under such procedures as the parties may agree upon, or, if the parties cannot agree, then under the Rules of the American Arbitration Association.

43. Expenses of Enforcement

Consultant and City agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney Office) and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

44. Authority to Execute

a. City acknowledges that the person executing this Agreement has been duly authorized by the City Council to do so on behalf of City.

b. Consultant acknowledges that the person executing this Agreement has been duly authorized by Consultant to do so on behalf of Consultant.

45. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to 4580 E. Thousand Oaks Blvd., Suite 101, Westlake Village, CA 91362.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Transportation Division, 305 West Third Street, East Wing Second Floor, Oxnard, California 93030, Attention: Debbie O'Leary.

46. Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

47. Entire Agreement

City and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

CITY OF OXNARD

Alexander Nguyen, City Manager — Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney — Date 10-10-19

MNS ENGINEERS, INC.

Shawn Kowalewski, Vice President — Date 10/14/19

James Salvito, CEO — Date 10.14.2019

46. Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

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City and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

CITY OF OXNARD

Alexander Nguyen, Date
City Manager

APPROVED AS TO FORM:

Stephen M. Fischer, 10-10-19 Date
City Attorney

MNS ENGINEERS, INC.

Shawn Kowalewski, Date
Vice President

James Salvito, CEO Date

EXHIBIT A

SCOPE OF SERVICES

TASK 1 PROJECT MANAGEMENT FOR PS&E

MNS will develop a Project Development Team (PDT), subject to City approval. Members of the PDT will include MNS and subconsultants, City, and other agency representatives, as necessary. MNS will schedule and conduct a kick-off meeting and as needed PDT meetings (a total of four meetings is anticipated). MNS will conduct team meetings with affected agencies to review schedules, concepts, plans, and specifications (a total of three meetings is anticipated). MNS will prepare monthly progress reports and supporting data, including accomplished tasks for the month, anticipated progress for the next month, pending issues, and schedule to meet target dates.

TASK 2 DESIGN PHASE

MNS will set panels to control the aerial mapping for the bike lane sites identified in the Request for Proposal (RFP), which will be set at a scale of 1"=40'. Aerial mapping coverage will include roadway corridors to the back of sidewalk. A digital color ortho-photo will be prepared and utilized as the base map for design. This scope of work does not include aerial survey planimetrics, supplemental surveys, or right-of-way retracement. Deliverables will include a digital color ortho-photo for design in AutoCAD Civil 3D format. A survey control summary will also be provided to identify control points and datum references. Land survey work will be performed by a licensed professional surveyor. MNS will develop base plans for the improvement plans. MNS will coordinate with the City's traffic staff regarding lane closures and working-hour restrictions. MNS will provide the City with an original complete set of mylar plans, specifications, and construction estimate. MNS will prepare a construction cost estimate with total costs and subtotals for each line item of work. MNS will prepare 65%, 95%, and 100% plans, specifications, and estimates for the City to review and comment. During bid phase, MNS will respond to bidder questions regarding the PS&Es.

TASK 3 QA/QC MEASURES

The following measures will be implemented to improve quality control of deliverables. MNS staff must comply with the provisions of MNS's quality assurance procedures. Subconsultant staff must comply with their internal quality assurance procedures. All civil improvement drawings will be drawn at standard engineering scales. All structural and other discipline drawings will be drawn at an architectural scale in fraction of an inch equals one foot. This will allow overlays for coordination and conflict review among all disciplines. All plan views for the same structure will be oriented in the same direction and include north arrows. Plans, details, and sections not drawn to scale will be avoided whenever possible. Intermediate progress sets of drawings will be plotted and reproduced half-size to facilitate cross-checking. All calculations will be checked, and so noted, by someone other than the preparer. Team members familiar with the project will check each other's calculations whenever possible. When checking calculations, the complete thought process will be reviewed as well as the math. Corrections will be clearly noted on the original calculations in red pencil, with superseded calculation sections or sheets marked "SUPERSEDED" (not 'VOID'), and retained within the pertinent section of the notebook; erroneous figures will be crossed out in red pencil, but left legible. All revisions must be reviewed with the individual who originally prepared the calculations. The name of the checker and the date of checking will be included on the appropriate locations on the calculations sheets. Technical Memoranda, written text must be reviewed for logic, clarity, completeness, coordination with figures and tables, and typographical errors before submittal to the City. The reviewer must not be the same person as the author of the text. Cost estimates will be checked for mathematical accuracy and to ensure all project elements have been included. Each discipline (e.g., structural, civil, electrical, etc.) and each Task Leader must perform detailed internal checking of all calculations, drawings, specifications, and cost estimates in accordance with an established schedule. Checking will be done when these items are

essentially complete. Special care will be taken to check last minute changes. Each dimension and note will be marked out with a yellow marker (be sure it is correct before yellow-lining); revisions and/or additions will be indicated in red and reviewed with the original designer. The person making the corrections will encircle the red marks on the print with a green marker as they are corrected, and return to the checker for back-checking. If requested by the checker, a final check print will be used in the back-checking process. The name of the checker, dates of checking, and back-checking will be written in red near the title box of each sheet checked and back-checked. The name of the checker will also be indicated on the original drawing. All project specifications will be in the appropriate format. The specification checker must be provided with an up-to-date set of drawings. Similarly, all references to the specifications on the plans must also be checked for compatibility. Every page of the specifications will be thoroughly read to provide project continuity, correctness, appropriateness, and coordination with the drawings, especially if a specification references another document, (e.g., specification, catalog no., etc.).

Redundant material, excess verbiage and inapplicable information will be eliminated. All corrections will be made in red marker and the revised specifications back-checked against the red-marked check set. The check set will identify the checker and dates of checking and back-checking. All cost estimates, including figures obtained from outside sources, will be checked for mathematical accuracy, reasonableness of data and assumptions and to confirm that all items in the project have been accounted for and included in the estimate. Cost estimates will also be checked for incorporation of all related items, such as contractor's overhead and profit and a suitable contingency allowance. The project construction cost estimates will be reviewed by the MNS Construction Management department.

TASK 4 CONSTRUCTION SUPPORT FOR CHANGES TO DESIGN (OPTIONAL)

At the City's discretion, MNS may be retained for construction support involving changes to design. MNS will provide the following construction support for changes to design services: Attend construction site meetings (up to three) and respond to questions; review and respond to shop drawing submittal for conformity with the PS&Es; review and respond to Requests for Information (RFIs) or Change Requests (CRs) from the City or contractor within three working days from the time of notice; review design CRs and prepare new design plans as needed (up to three); maintain a log of all changes (either clouded or clearly described) to the approved plan set; assist the City's Project Manager in reviewing and making recommendations to Contract Change Orders (CCOs); prepare cost estimates for CCOs; prepare record drawings upon completion of the project and acquire redlined plans from the contractor, and final record drawings will be provided in electronic files (AutoCAD and PDF) and mylar.

EXHIBIT B

SCHEDULE OF SERVICES

Time is of the essence for this project due to the Caltrans Congestion Mitigation Air Quality (CMAQ) grant funding. The City intends to issue the Notice to Proceed (NTP) to the selected Consultant after City Council action in November 2019. The Consultant shall begin work as soon as the NTP is issued. City anticipates a construction bid-ready PS&E package to be completed within six (6) months of the NTP.

Consultant shall produce a delivery schedule as described in Section 6 of the Request for Proposals, and Section 2 Schedule of the MNS Engineers, Inc. proposal.

EXHIBIT C
COMPENSATION RATES
(see attached tables that follow)

*In any case, payments to Consultant for related travel and subsistence (per diem) expenses of Consultant forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file State employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by Consultant are in excess of DPA rates, Consultant is responsible for the cost difference, and any overpayments inadvertently paid by City shall be reimbursed to City by Consultant on demand within thirty (30) days of such invoice.

EXHIBIT INS-A

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 (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. 8789-19-PW
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

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.

10/19

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/ $500,000 & listed sub-consultant

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

CERTIFICATE HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No. 8789-19-PW
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

Rev. 10/19 INS-A.doc

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

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. 8789-19-PW
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: _____

Rev. 10/19 INS-A.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
Attn: Insurance Compliance
Reference No. 8789-19-PW
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 _____

Rev. 10/19 INS-A.doc

EXHIBIT D

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant and its subconsultants and subcontractors will not discriminate, harass or allow harassment against any employee or applicant for employment because of race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Consultant will take affirmative action to ensure that employees are treated during employment without regard to their race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; evaluation; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and general treatment. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by State setting forth the provisions of this Fair Employment section.

2. Consultant, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq. and 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapters 5 of Divisions 4 and 4.1 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and each of its subconsultants and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other agreements, as appropriate.

3. Consultant shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. Consultant will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, State shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by State in securing the goods or services thereunder shall be borne and paid for by Consultant and by the surety under the performance bond, if any, and State may deduct from any moneys due or thereafter may become due to Consultant, the difference between the price named in the Agreement and the actual cost thereof to State to cure Consultant's breach of this Agreement.

EXHIBIT E

NONDISCRIMINATION ASSURANCES

CONSULTANT HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the State, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C.

2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the Regulations), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Consultant receives federal financial assistance from the Federal Department of Transportation. CONSULTANT HEREBY GIVES ASSURANCE THAT CONSULTANT will promptly take any measures necessary to effectuate this Agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations.

More specifically, and without limiting the above general assurance, Consultant hereby gives the following specific assurances with respect to its federal-aid Program:

1. That Consultant agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That Consultant shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the federal-aid program and, in adapted form, in all proposals for negotiated agreements:

Consultant hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That Consultant shall insert the clauses of Appendix A of this assurance in every agreement subject to the Act and the Regulations.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where Consultant receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where Consultant receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That Consultant shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Consultant with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-

aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid program.

8. That this assurance obligates Consultant for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates Consultant or any transferee for the longer of the following periods:

(a) the period during which the property 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; or

(b) the period during which Consultant retains ownership or possession of the property.

9. That Consultant shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that Consultant, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, the Regulations, this Assurance and the Agreement.

10. That Consultant agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

11. Consultant shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any State assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. Consultant shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of State assisted contracts. Consultant's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved DBE Implementation Agreement, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 *et seq.*)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to Consultant by State, acting for the U.S. Department of Transportation, and is binding on Consultant, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

Appendices A through D are attached hereto and incorporated herein by this reference.

APPENDIX A TO EXHIBIT E

During the performance of this Agreement, Consultant, for itself, its assignees and successors in interest (hereinafter collectively referred to as Consultant) agrees as follows:

(1) Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to Consultant's books, records, accounts, other sources of information, and its facilities as may be determined by State or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to State or the FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, State shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: Consultant shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any sub-agreement or procurement as State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request State enter into such litigation to protect the interests of State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO EXHIBIT E

The following clauses shall be included in any and all deeds effecting or recording the transfer of Project real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that Consultant will accept title to the lands and maintain the Project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Consultant all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit D attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Consultant and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on Consultant, its successors and assigns.

Consultant, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and)*

(2) that Consultant shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended(;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the

U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO EXHIBIT E

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by Consultant, pursuant to the provisions of Assurance 7(a) of Exhibit E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said {license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to re-enter said land and facilities thereon, and the above- described lands and facilities shall thereupon revert to and vest in and become the absolute property of Consultant and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO EXHIBIT E

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Consultant, pursuant to the provisions of Assurance 7(b) of Exhibit E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said {license, lease, permit, etc.) had never been made or issued.

{Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, Consultant shall have the right to re-enter said land and facilities thereon, and the above- described lands and facilities shall thereupon revert to and vest in and become the absolute property of Consultant, and its assigns.

* Reverter clause and related language to be used only when ii is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

EXHIBIT F

FEDERAL LOBBYING ACTIVITIES CERTIFICATION

1. The undersigned certifies, to the best of his or her knowledge and belief, that:

a. No federal or state appropriated funds have been paid or will be paid, by or on behalf of Consultant or the undersigned, to any person for influencing or attempting to influence an officer or employee of any State or federal agency, a member of the State Legislature or United States Congress, an officer or employee of the State Legislature or Congress, or any employee of a Member of the State Legislature or Congress in connection with the awarding of any State or federal contract, including this Agreement, the making of any State or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any State or federal contract, grant, loan, or cooperative contract.

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 federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Agreement, grant, local, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

2. The undersigned shall require that the language of this certification be included in all lower tier sub-agreements and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, United States Code. Any party 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.

Consultant:

Name: _____ Title: _____

Signature: _____ Date: _____

Name: _____ Title: _____

Signature: _____ Date: _____

OXNARD BOULEVARD BICYCLE FACILITIES INSTALLATION - RFP PW19-96
STAFF HOURS BY TASK
HUITT-ZOLLARS INC.
8/14/2019 - Revised 8/30/2019

Task	Haslinger Princ In Charge $342	Taylor QA Mgr $265	Carter Sr Proj Mgr $281	Proj Mgr $185	Vlassis Sr Civil Engr $265	Speiler Sr Plnr $230	Walllace Sr Strl Engr $219	Srtl Engr $199	Scott Sr L/S Arch $191	St John L/S Arch $128	Rivera Sr Traffic Engr $153	Gallegos Traffic Engr $112	Bihis EIT $102	Duenez Designer $132	Beltran Sr CADD Tech $132	Klein Sr Proj Support $96	Lenherr Survey Mgr $256	Hanson Sr Proj Surveyor $200	Proj Surveyor $149	Survey Tech $132	Survey Crew (2) $328	Constn Mgr $281	Yeh Geotech	Rincon Environmental	Total Hours	Sub-Consultants	Reimb Expenses	TOTAL FEE
1.0 Preliminary Design - Analysis of Existing Conditions & Base Map Preparation																												
1.01 Project Work Plan and Schedule	1		8																						**9**			**$2,589**
1.02 Project Kick-Off Meeting	1		4										2												**7**		$50	**$1,719**
1.03 Field Reconnaisance			8										8												**16**		$50	**$3,114**
1.04 Survey Research and Design Survey			4														2	4	8	8	16		19968		**42**	$19,968		**$29,898**
1.05 Develop Preliminary 30% Design Concept (40 scale)			8		4	2					4		20	40											**78**			**$11,697**
1.06 Project Meetings (1 during Preliminary Phase)			4										2												**6**		$50	**$1,378**
1.07 Grant Reporting			6													4									**10**			**$2,070**
1.08 City Revisions to 30% Plans			4										4	4											**12**		$50	**$2,110**
1.09 QA/QC of Plans		4																							**4**			**$1,058**
1.10 Reports and Estimates			8										8	8											**24**			**$4,120**
2.0 Construction Level Drawings - Civil Plans																												
2.01 Prepare 60% Plans, Specifications & Estimate																									**0**			**$0**
Striping			8								8	8	16												**40**			**$5,998**
Plan/Profile Civil			8		8		24	16	8	8			16	40											**128**			**$22,256**
Miscellaneous Sheets (Title, Detail, etc)			4										24												**28**			**$3,573**
Estimate			4										8	8											**20**			**$2,996**
2.02 Prepare 95% Plans, Specifications & Estimate																									**0**			**$0**
Striping			6								8	8	16												**38**			**$5,437**
Plan/Profile Civil			6		8		8	8	4	4			8	24											**70**			**$12,402**
Miscellaneous Sheets (Title, Detail, etc)			4																						**4**			**$1,124**
Estimate			4										8	8											**20**			**$2,996**
Traffic Signal Plans (Orchard Pl)			4								6	18													**28**			**$4,059**
Traffic Signal Modification Plans (WW, Gonzales, Vineyard)			12								18	54													**84**			**$12,178**
2.03 Prepare 100% Plans, Specifications & Estimate	1		8		4						4	4	12	12											**45**			**$7,515**
2.04 Caltrans Permitting			12								12			12											**36**		$100	**$6,885**
2.05 Construction Authorization			4																						**4**			**$1,124**
2.06 Project Meetings (2 during Design Phase)			8										4												**12**		$100	**$2,755**
2.07 City Revisions to Plans			8								8		8	8											**32**			**$5,340**
2.08 QA/QC of Plans	1	12	2		2						4	4	4	4								2			**35**			**$7,166**
2.09 Project Specifications (Outline at 60%, full draft at 95%)			0		20						20					2									**42**			**$8,534**
2.10 Grant Reporting (Design Phases Only)			6													4									**10**			**$2,070**
3.0 Bid Period Support																												
3.01 Pre-Bid Meeting																1									**1**			**$96**
3.02 Respond to Bidders Questions			1													1									**2**			**$377**
3.03 Prepare Addenda																									**0**			**$0**
3.04 Review/Evaluate Bids																									**0**			**$0**
4.0 Construction Support																												
4.01 Pre-Construction Meeting			4																						**4**		$50	**$1,174**
4.02 Site Construction Meetings (3 @ 1/month)			6																						**6**		$150	**$1,835**
4.03 Review Shop Drawings & Submittals			12																						**12**			**$3,371**
4.04 Respond to Requests for Information			4																						**4**			**$1,124**
4.05 Review Contractor Progress payments																									**0**			**$0**
4.06 Field Observations (4 @ 2 hrs each)			8																						**8**		$200	**$2,447.04**
4.07 Coordianting with City & other Consultants			16																						**16**			**$4,494**
4.08 Preparing Record Drawings		2	4										16	16											**38**		$500	**$5,898.02**
TOTAL without Optional Tasks	4	18	217	0	46	2	32	24	12	12	92	96	184	184	0	12	2	4	8	8	16	2	19968	0	975			
	$1,367	$4,763	$60,951	$0	$12,172	$460	$6,996	$4,766	$2,297	$1,534	$14,030	$10,778	$18,783	$24,288	$0	$1,153	$513	$800	$1,192	$1,056	$5,246	$563	$0	$0	$173,708	**$19,968**	**$1,300**	**$194,976**
TOTAL ESTIMATED FEE (ALL TASKS)																										$ 19,968	$ 1,300	$ 194,976

G:\Marketing\4-Public\Ventura County-Cities\City of Oxnard\2019 RFP PW 19-96 Oxnard Bl Bike (due 8-14-2019)\[PW 19-96 Oxnard Bl Bike Fee Estimate.xlsx]OxBl Bike 8-30-2019 (Neg Rev)

MNS Engineers, Inc. - Team Resource Estimate

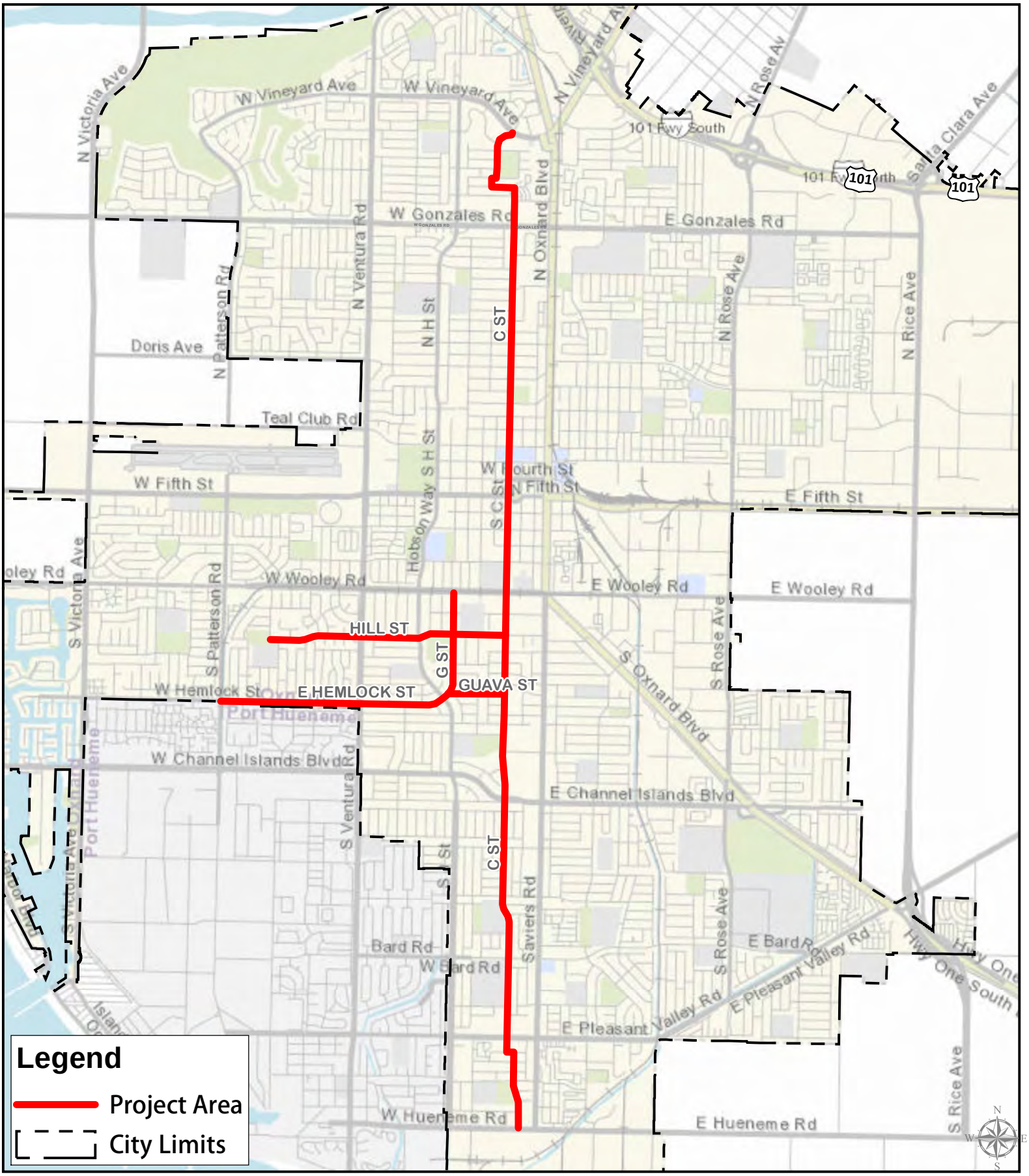
C Street Bike Facilities Installation PW19-95

	MNS Engineers								Task Summary					
	Principal Engineer	Associate Engineer (RW)	Associate Engineer (SP)	Principal Surveyor	Lead Surveyor	Associate Project Surveyor	Party Chief	Chain Person	MNS Resource Hours	MNS Resource Costs	Central Coast Aerial Mapping	Reimbursables	Total Costs	Task Costs
Task Descriptions	$230.75	$97.30	$87.95	$303.12	$167.21	$102.95	$145.27	$139.56						
Task 1 Project Management														
1. Develop PDT	4								4	$923			$923	
2. Kickoff/PDT Meetings (4)	10								10	$2,308			$2,308	
3. Agency Meetings (3)	8								8	$1,846			$1,846	
4. Monthly progress reports	8								8	$1,846			$1,846	$6,923
Task 2 - Design Phase														
1. Data Collection/Field Review	4	16	12						32	$3,535			$3,535	
2. Utility Coordination	4		20						24	$2,682		$100	$2,782	
3. Survey and Mapping				4	16	16	24	24	84	$12,371	$9,350		$21,721	
4. Develop Base Map	16	30	40						86	$10,129			$10,129	
5. Coordinate with City Traffic Staff	4								4	$923			$923	
6. Provide final mylars, specification and estimate	2		4						6	$813		$250	$1,063	
7. Construction Cost Estimate	2	4	12						18	$1,906			$1,906	
8. 65%, 95% and 100% PS&E (27 Sheets)														
Title Sheet	2	4	8						14	$1,554		$10	$1,564	
Improvement Plans 1"=40' Double Stacked (20)	40	80	120						240	$27,568		$100	$27,668	
Construction Details (1)	4	8	16						28	$3,109		$10	$3,119	
Typical Traffic Control (5)	12	24	48						84	$9,326		$20	$9,346	
Specifications	24	12							36	$6,706			$6,706	$90,462
Task 3 - Bid Phase														
1. Respond to Bidder Questions	2	8							10	$1,240			$1,240	$1,240
Task 4 - Construction Support for Changes to Design														
1. Attend Construction Meetings (up to 3)	6								6	$1,385			$1,385	
2. Review shop drawings and submittal	2	8							10	$1,240			$1,240	
3. Respond to RFIs	2	8							10	$1,240			$1,240	
4. Review design CR/prepare plans	2	8							10	$1,240			$1,240	
5. Maintain log of changes	2	8							10	$1,240			$1,240	
6. Review CCO/Prepare CCO cost estimate	2	12							14	$1,629			$1,629	
7. Record Drawings	1	6	12						19	$1,870		$250	$2,120	$10,093

	Staff Summary								Project Summary					
Total Staff Hours	163	236	292	4	16	16	24	24	775 Hours	$98,628	$9,350	$740	$108,718	$108,718
Total Staff Costs	$37,612	$22,963	$25,682	$1,212	$2,675	$1,647	$3,486	$3,349						

GRAND TOTAL	$108,718	$108,718

C STREET BICYCLE FACILITIES INSTALLATION (PW19-95): EXHIBIT 14 - PROJECT LOCATION



Created by:
CITY OF OXNARD
Geographic Information Systems Division
July 2019

2,000 0 2,000 4,000 Feet

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Data Source:
City of Oxnard GIS Division
County of Ventura GIS Program

OXNARD BOULEVARD BICYCLE FACILITIES INSTALLATION (PW19-96): EXHIBIT 14 - PROJECT LOCATION

Created by:
CITY OF OXNARD
Geographic Information Systems Division
July 2019

550 0 550 1,100 Feet

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Data Source:
City of Oxnard GIS Division
County of Ventura GIS Program

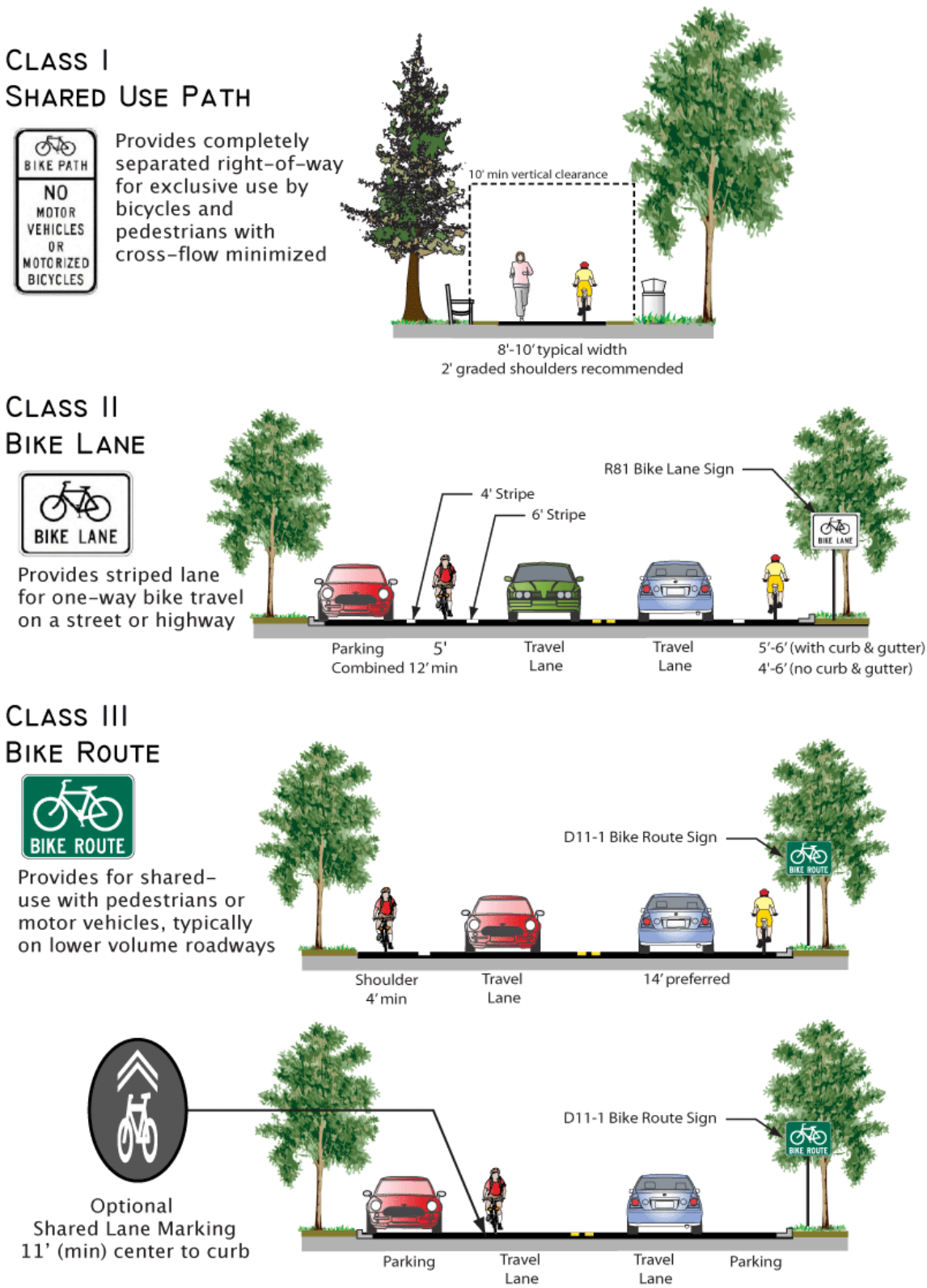

Figure 3-4: Caltrans Bikeway Classifications

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS
AGENDA ITEM NO. L.1.

DATE: December 3, 2019

TO: City Council

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Planning and Zoning Permit No. 19-580-05 (Zoning Text Amendment) – Amendment to the Oxnard City Code to Create Regulations for Cannabis Retail Dispensaries. (15/10/10)

RECOMMENDATION

That the City Council approve the first reading by title only of an Ordinance to regulate retail cannabis within Chapters 11 and 16 of the Oxnard City Code pertaining to permitting and siting of cannabis dispensaries. (Housing and Economic Development Committee approved 3-0)

BACKGROUND

On October 2, 2018, the City Council received a presentation regarding land use and siting (location) options associated with types of cannabis operations in zoning designations throughout the City of Oxnard. Council provided direction to implement the state buffer requirement of 600 feet and utilize the State definition of sensitive use which is defined as: K-12 schools (including private and charter schools), day care centers, youth centers, and public parks. (Business and Professions Code Section 26054, subd. (b); California Code of Regulations, Title 16, Section 5026.) State law mandates that the 600-foot distance be calculated, parcel to parcel (boundary line to boundary line) (Health and Safety Code Section 11362.768, subd. (a).) This means if 600 feet touches any part of a legal parcel, the entire area cannot contain cannabis related uses. State law does not define a sensitive use as a residential land use.

On August 15, 2019, the Planning Commission recommended 4:3 that the draft retail cannabis ordinance be modified to require:
1) A residential buffer from dispensaries;
2) That retail dispensaries be permitted in the downtown; and
3) That sale of product that resembles candy and “child like” flavors be prohibited in dispensaries.

As the vote indicates, the Commission was not unified on their recommendation to the City Council. Those in favor of the added restrictions felt it protected the public health and welfare and reflected a “go slow” approach. Those against the added regulations felt the change had not been studied to fully determine the land use and siting implication. Due to Planning Commission's recommended changes to the Ordinance, on October 22, 2019 the Housing & Economic Development Committee (HEDC) considered the draft retail dispensary ordinance and the Planning Commission's input. The HEDC supported staff recommendation to allow retail dispensaries within two of the three downtown zoning designations (Downtown Core and Downtown General) and that the sale of products that resemble candy and child like flavors should be regulated by the State (not the City). At this meeting, the HEDC did not agree with the Planning Commission that residential land uses should be considered a sensitive use (Attachment 1 - October 22, 2019 HEDC Staff Report, without attachments). Adding residential land use as a sensitive use to the 600' buffer would reduce the potential dispensary locations to less that 150 parcels.

As a result of a public speaker representing a church at the HEDC meeting, the HEDC recommended that staff study the implications of including religious institutions in the definition of sensitive use. Gabriel Teran, representing the Inter Neighborhood Council (INCO), communicated that the INCO recommending implementing a 1,000 foot sensitive use buffer for retail dispensaries. The HEDC recommended that staff study the impact to potential dispensary locations utilizing a 500, 600 and 1,000 foot sensitive use buffer, and analyze the number of parcels impacted if the City included religious institutions in the definition of sensitive use when citing retail dispensaries. Members of the HEDC also suggested that if this new buffer analysis for churches resulted in a significant reduction in available locations, this may not be a reasonable limitation to include.

ANALYSIS/DISCUSSION

Potential Retail Locations

Potential dispensary locations are located throughout the City, and can be located within large commercial shopping centers or on smaller "strip" commercial parcels. (Attachment 2 - Scenario 1 Map – Conceptual Retail Dispensary Locations based upon Staff Recommended 600 foot sensitive use buffer). Retail dispensaries can generally be located within the Neighborhood Shopping Center (C-1), General Commercial (C-2), and Commercial Planned Development zoning districts. Additionally, a few Specific Plan areas allow both manufacturing, testing, and distribution as well as retail dispensaries; these include the Rose Santa Clara Corridor Specific Plan, and a portion of the Sakioka Farms Specific Plan area. The attached maps should be considered "conceptual locations". The precise locations will be determined through discussions with the Planning Department and as part of the Cannabis Business Permit review process.

The maps within this staff report should be considered Overlay Maps. An overlay is a procedure that estimates the attributes of one or more features (potential locations and buffer areas) by superimposing them over other features (zoning). Best practices will be imposed for retail dispensaries regardless of location. As shown on the maps, cannabis dispensaries are currently identified within the coastal zone (Northwest and Southwest corners of Harbor Blvd. and Wooley Rd.). However, an amendment to the City's Coastal Zoning Ordinance (Chapter 17 of the Oxnard City Code) will be required to permit these uses in this location. Retail dispensaries in the coastal zone are not proposed at this time. Staff has studied the parcel implication associated with utilizing a 500, 600, and 1,000 sensitive use buffer and including religious institutions in this definition. Potential dispensary parcels available with various sensitive use buffers follows:

1. State Sensitive locations (without religious locations) with 600 ft buffers (existing maps presented to HEDC and consistent with conceptual maps presented to Council on Oct. 28, 2018) (Scenario 1 Map) = **940 parcels**
2. Sensitive locations plus religious institutions with 600 ft buffers (Scenario 2 Map)= **767 parcels**
3. State Sensitive locations (without religious locations) with 1000 ft buffers (Scenario 3 Map) = **585 parcels**
4. Sensitive locations plus religious institutions with 1000 ft buffers (Scenario 4 Map) = **458 parcels**
5. State Sensitive locations (without religious locations) 500 ft buffers (Scenario 5 Map) = **1017 parcels**
6. Sensitive locations plus religious institutions with 500 ft buffers (Scenario 6 Map) = **837 parcels**

These maps are identified within Attachment 2 - "Scenario Maps". The City's religious land use inventory is from approximately January 2019. It was based upon business licenses for religious organizations, along with additional religious institutions known by staff. Staff acknowledges that of this business license based database may not be all encompassing. Religious institutions may change over time, move, or operate in a temporary fashion in locations all of which the City may not be privy to; therefore, inclusion of religious institutions in the sensitive use citing criteria is problematic. Inclusion of religious institutions as a sensitive use is difficult because religious institutions can be formed/created without City knowledge, and the context for what qualifies as a religious institution is somewhat difficult to define. In discussing this issue with the City's cannabis consultant, HdL, no other jurisdiction for which HdL is providing professional consulting includes religious institutions in the definition of sensitive use. Religious institutions which contain private schools licenses , which are also regulated by the State or a State licensed childcare facility are considered a sensitive use.

Staff recommends continuing to utilize the state definition of sensitive use and proceed with utilizing a 600 foot sensitive use buffer. Proceeding with this approach means that the City has conceptually identified 940 parcels where retail cannabis dispensaries may potentially be located.

Cannabis Best Practice Considerations

Best practices are identified in the Draft Ordinance and/or will be made conditions of approval on the dispensary permit (See Attachment 3 - Draft Retail Ordinance). Operational standards are contained in Sections 11-445 of the attached draft ordinance. The standards have been designed to protect the public health safety and welfare by implementing regulations to address concerns regarding: odor, noise, safety, security, lighting, water usage, and community benefits.

Social Equity

On October 2, 2019, staff held a social equity community meeting with members of the public and business community regarding elements of the Oxnard Cannabis Equity Program. As a result of this meeting, staff is refining the social equity program and will be presenting this to the City Council in early 2020.

ENVIRONMENTAL IMPACT

In accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), Planning staff have determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to strengthen and stabilize the organizational foundation of the City in the areas of Finance, Information Technology, and Human Resources, and to improve workforce quality while increasing transparency to the public. This item supports the following goals and objectives:

Goal 1. To help foster a healthy and accountable corporate foundation by strengthening the support functions of the organization, which include Finance, Information Technology and Human Resources.

Goal 2. Increase transparency with Council, community and staff related to the City's budget and financial management processes.

FINANCIAL IMPACT

In November 2018, the voters authorized a new cannabis tax which set a sliding scale of tax rates over time by cannabis operations. As part of the FY 2019-20 Adopted Budget, the City did not anticipate any potential tax revenue. However, beginning in FY 2020-21 tax revenue is likely. Based upon the market, in staff's opinion it is too early to project anticipated tax revenue from cannabis operations. In subsequent years, the tax rate will increase along with the number of businesses permitted in the City. The FY2019-20 revised budget does include permit revenue approved by City Council on July 2, 2019.

On July 30, 2019 City Council adopted a fee schedule to collect all fees associated with cannabis permitting. The proposed cannabis permit fee will fully cover the cost of service provided by City staff and various departments along with Phase 1 and 2 HdL contract expenditures. This will ensure that all past and anticipated permitting fees and contract expenses are recovered through the cannabis permit fee.

COMMITTEE OUTCOME

The Housing and Economic Development Committee recommended 3:0 to study the implications of including religious

institutions in the definition of sensitive use and evaluate the implication in parcel availability in implementing a religious use buffer of 500 feet and parcel availability in implementing a non-religious use buffer of 1,000 feet.

Prepared by: Kathleen Mallory, Planning & Sustainability Manager

ATTACHMENTS

1. Attachment 1 - October 22 2019 HEDC Staff Report
2. Attachment 2 - Conceptual Retail Dispensary Locations with 500, 600 and 1,000 foot buffers
3. Attachment 3 - Retail Cannabis Ordinance
4. CC 12_03_2019 Retail Cannabis Presentation

CITY OF OXNARD CALIFORNIA

HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.1.

DATE: October 22, 2019

TO: Housing and Economic Development Committee

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Planning and Zoning Permit No. 19-580-05 (Zoning Text Amendment) – Amendment to the Oxnard City Code to Create Regulations for Cannabis Retail Dispensaries. (10/10/10)

RECOMMENDATION

That the Housing and Economic Development Committee recommend City Council approval of Planning and Zoning Permit No. 19-580-05 (Zoning Text Amendment) for the regulation of cannabis retail dispensaries within the City of Oxnard.

BACKGROUND

On June 26, 2018, the City Council conducted a study session to evaluate the types of cannabis related uses that may be permitted in the City. Background information provided to the City Council for its consideration at the study session included the "Fiscal Analysis and Feasibility Study of the Commercial Cannabis Industry" prepared by the City's cannabis consultant, HdL. At this meeting, the City Council directed staff to proceed with evaluating the siting and land use regulations associated with the following cannabis uses: 1) Retail (medical and non-medical); 2) Manufacturing; 3) Distribution; 4) Testing Laboratories; and 5) Cultivation (herein collectively referred to as "types of cannabis operations").

On October 2, 2018, the City Council received a presentation regarding land use and siting (location) options associated with types of cannabis operations in zoning designations throughout the City of Oxnard. Council provided direction to implement the state buffer requirement of 600 feet and utilize the State definition of sensitive use which is defined as: K-12 schools (including private and charter schools), day care centers, youth centers, and public parks. (Business and Professions Code Section 26054, subd. (b); California Code of Regulations, Title 16, Section 5026.) State law mandates that the 600-foot distance be calculated, parcel to parcel (boundary line to boundary line). (Health and Safety Code Section 11362.768, subd. (a).) This means if 600 feet touches any part of a legal parcel, the entire area cannot contain cannabis related uses. State law does not define a sensitive use as a residential land use.

At a City Council meeting on July 30, 2019, Council directed staff to prepare a cannabis social equity program (Oxnard Cannabis Equity). Additionally, Council gave conceptual approval to withhold three (3) of the eight (8) manufacturing permits and to withhold two (2) of the eight (8) retail dispensaries through year 2. Guidelines pertaining to who would be permitted to secure these permits will be developed as part of the Oxnard Cannabis Equity Program.

On October 2, 2019, staff held a social equity community meeting with members of the public and business community regarding elements of the Oxnard Cannabis Equity Program. Due to publishing deadlines meeting outcome cannot be summarized in this staff report but will be communicated at the HEDC meeting.

ANALYSIS/DISCUSSION

On August 15, 2019, the Planning Commission recommended 4:3 that the draft retail cannabis ordinance be modified to require a residential buffer from dispensaries, that retail dispensaries be permitted in the downtown, and that sale of product that resembles candy and "child like" flavors be prohibited in dispensaries. As the vote indicates, the Commission was not unified on their recommendation to the City Council. Those in favor of the added restrictions felt it protected the public health and welfare and reflected a "go slow" approach. Those against the added regulations felt the change had not been studied to fully determine the land use and siting implication.

Staff's input pertaining to these recommendations is contained in italics following the Commission input:

1. Residential land uses should be considered a sensitive use and retail cannabis operations should be no closer than six hundred (600) feet from any residentially zoned property or any residentially used parcel as of the date of the cannabis business permit is issued.

Implementing a 600 foot residential buffer from potential retail dispensary locations results in retail cannabis parcel availability changing from 673 to approximately 146 potentially available parcels. Imposition of this buffer requirement without imposing the same regulation on alcohol establishments does not seem reasonable. Further, restricting or buffering this use from residential uses does not acknowledge the legal nature of the product, does not normalize the use and can potentially push these uses to a less desirable area. Lastly, through imposition of best practices public health and safety will be protected and ensured. Retail dispensaries are proposed to be permitted through a Special Use Permit (SUP). (* - this number does not include potential downtown zones; see item 2, below). The City of Thousand Oaks imposes a residential buffer but only allows medical dispensaries (no personal use). The City of Port Hueneme does not impose a residential buffer requirements. Staff's research indicates that imposition of a residential buffer is not common.*

2. Retail cannabis uses should be permitted in the newly created downtown and downtown core as identified in the City's Downtown Development Code which will be effective on September 1, 2019.

Staff is in support of this inclusion. The downtown zoning districts became effective on Sept. 1st as part of the City's Downtown Development Code. This Code created three new zoning districts which were not in effect at the time the draft retail ordinance was presented to the Planning Commission (Aug. 15th). Staff recommends that retail dispensaries be permitted in two of the three new downtown zones; these would be: Downtown General (DT-G), and Downtown Core (DT-C). Staff doesn't recommend allowing retail dispensaries in the Downtown Edge (DT-E) zoning district to provide a transition between the uses. Should the HEDC concur, the proposed zoning text amendment will be amended to reflect this direction. Best practices and standards to protect the public health, safety and welfare will continue to be imposed regardless of location (see Attachment A - Conceptual Downtown Locations). The addition of the two downtown zoning districts results in the addition of approximately 132 addition retail parcels.

3. To the extent feasible by law, candy like products packaged to market to children shall be prohibited; flavored vaping products shall also be prohibited from being sold within retail cannabis uses within the City of Oxnard.

Some Planning Commissioners expressed concern with packaging of cannabis product along with allowance of flavored vape products. Regulation of packaging and flavored additives are currently addressed by State laws. Packaging laws and serving sizes are now more closely regulated and addressed pursuant to State provisions.

Potential Retail Locations

Potential dispensary locations are located throughout the City, and can be located within large commercial shopping centers or on smaller "strip" commercial parcels. (see Attachment B – Conceptual Retail Dispensary Locations). The attached conceptual maps are generally consistent with the maps presented to the City Council on Oct. 28, 2018. These areas are generally located within the Neighborhood Shopping Center (C-1), General Commercial (C-2), and Commercial Planned Development zoning districts. Additionally, a few Specific Plan areas allow both manufacturing, testing, and distribution as well as retail dispensaries; these include the Rose Santa Clara Corridor Specific Plan, and a portion of the Sakioka Farms Specific Plan area. The attached maps should be considered "conceptual locations". The precise locations will be determined through discussions with the Planning Department and as part of the Cannabis Business Permit review process.

The maps within Attachments A and B should be considered Overlay Maps. An overlay is a procedure that estimates the attributes of one or more features (potential locations and buffer areas) by superimposing them over other features (zoning). Best practices will be imposed for retail dispensaries regardless of location. As shown on the maps, cannabis dispensaries are currently identified within the coastal zone (Northwest and Southwest corners of Harbor Blvd. and Wooley Rd.). However, an amendment to the City's Coastal Zoning Ordinance (Chapter 17 of the Oxnard City Code) will be required to permit these uses in this location. Retail dispensaries in the coastal zone are not proposed at this time.

Cannabis Best Practice Considerations

Best practices are identified in the Draft Ordinance and/or will be made conditions of approval on the dispensary permit (See Attachment C - Draft Retail Ordinance). Operational standards are contained in Sections 11-445 of the attached draft ordinance. The standards have been designed to protect the public health safety and welfare by implementing regulations to address concerns regarding: odor, noise, safety, security, lighting, water usage, and community benefits.

ENVIRONMENTAL IMPACT

In accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), Planning staff have determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations.

STRATEGIC PRIORITIES

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FINANCIAL IMPACT

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In November 2018, the voters authorized a new cannabis tax which set a sliding scale of tax rates over time by cannabis operations. As part of the FY 2019-20 Adopted Budget, the City did not anticipate any potential revenue. However, beginning in FY 2020-21 tax revenue is likely. Based upon the market, in staff's opinion it is too early to project anticipated revenue from cannabis operations. On July 30, 2019 City Council adopted a fee schedule to collect all fees associated with cannabis permitting. The proposed cannabis permit fee will fully cover the cost of service provided by City staff and various departments along with Phase 1 and 2 HdL contract expenditures. This will ensure that all past and anticipated permitting fees and contract expenses are recovered through the cannabis permit fee.

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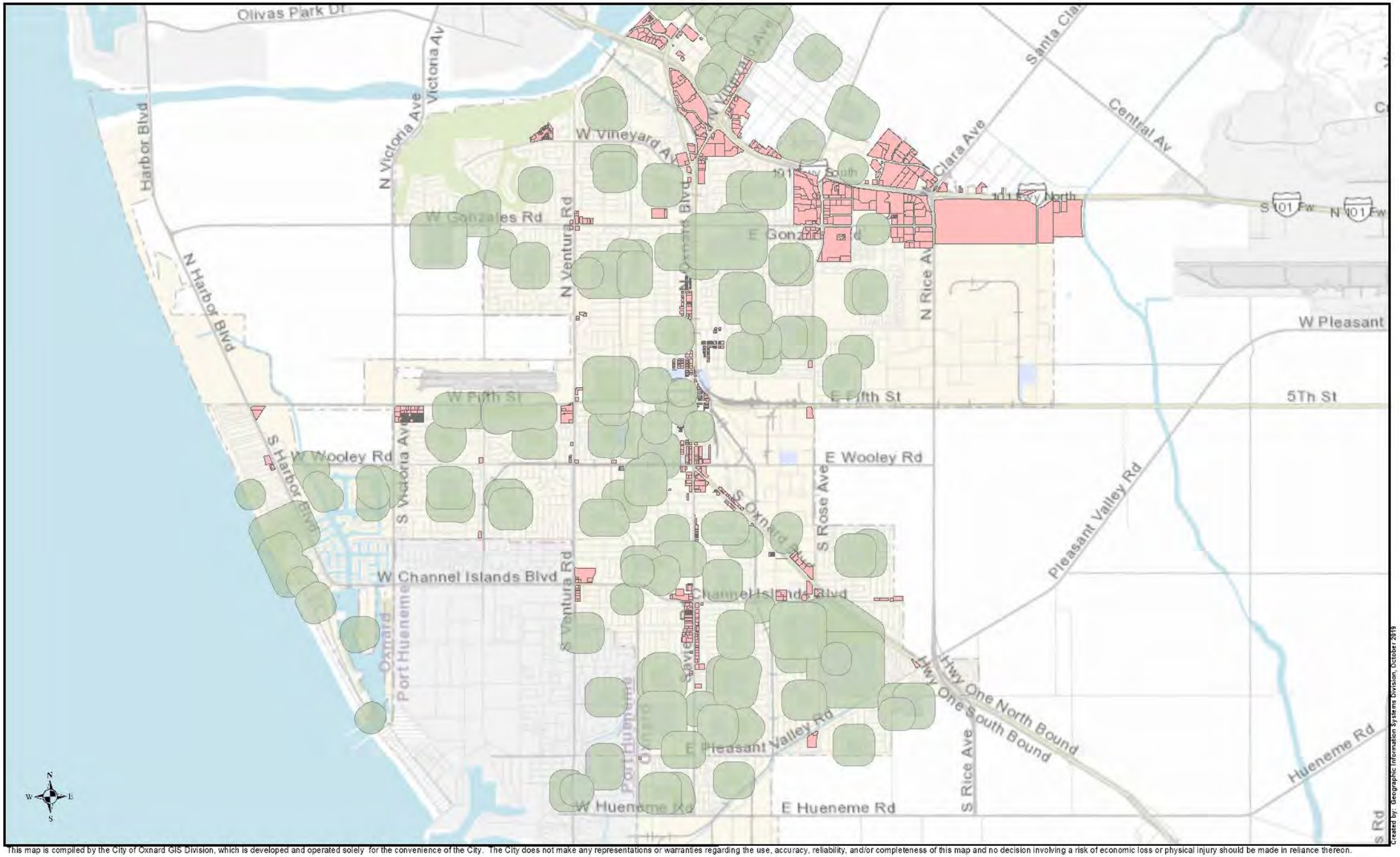
Prepared by: Kathleen Mallory, Planning & Sustainability Manager

ATTACHMENTS

1. Attachment A - Conceptual Retail Dispensary Locations
2. Attachment B - Conceptual Downtown Retail Dispensary Locations
3. Attachment C - Draft Retail Cannabis Ordinance
4. HEDC 10_22_19 Retail Cannabis Presentation

RETAIL MAP - SCENARIO 1

THIS IS A CONCEPTUAL MAP ONLY



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Created by: Geographic Information Systems Division, October 2019

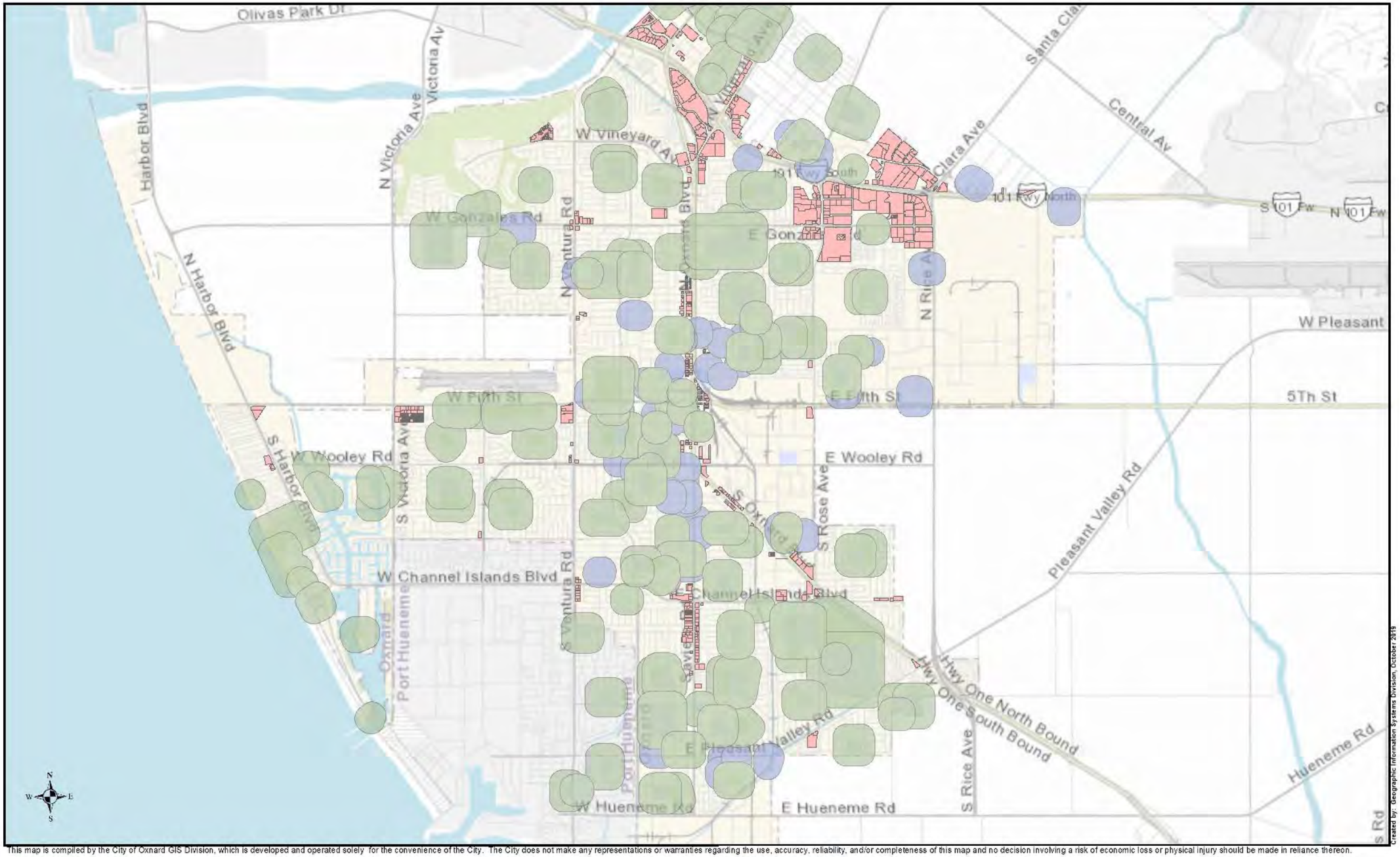
600 ft Buffer, Non-Religious Sensitive Sites

Eligible Parcels After Instituting a 600 ft Non-Religious Sensitive Area Buffer (940 parcels)

4,000 0 4,000 8,000 Feet

RETAIL MAP - SCENARIO 2

THIS IS A CONCEPTUAL MAP ONLY



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600 ft Buffer, Non-Religious Sensitive Sites

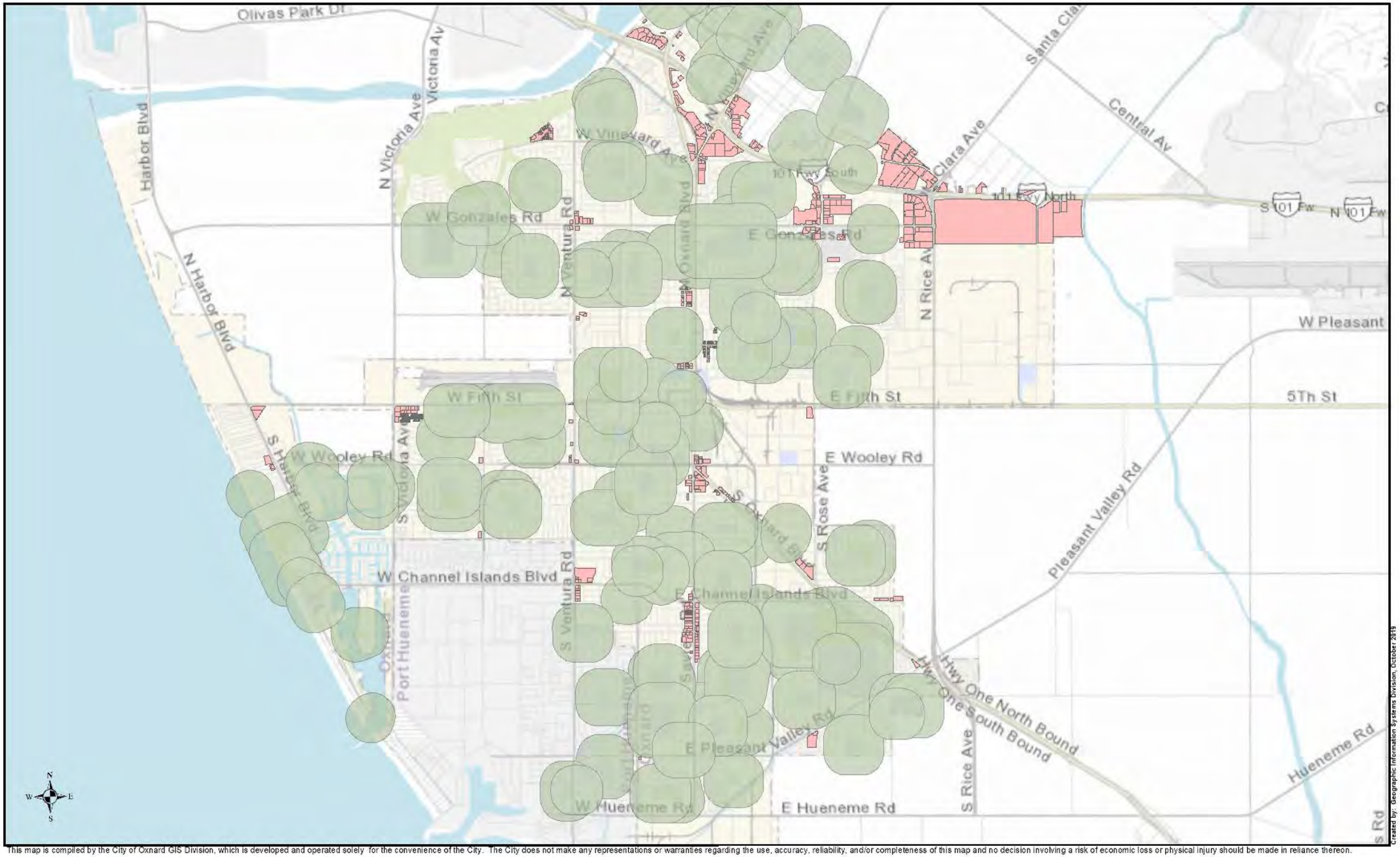
600 ft Buffer, Religious Sensitive Sites

Eligible Parcels After Instituting a 600 ft Religious & Non-Religious Sensitive Area Buffer (767 parcels)

4,000 0 4,000 8,000 Feet

RETAIL MAP - SCENARIO 3

THIS IS A CONCEPTUAL MAP ONLY



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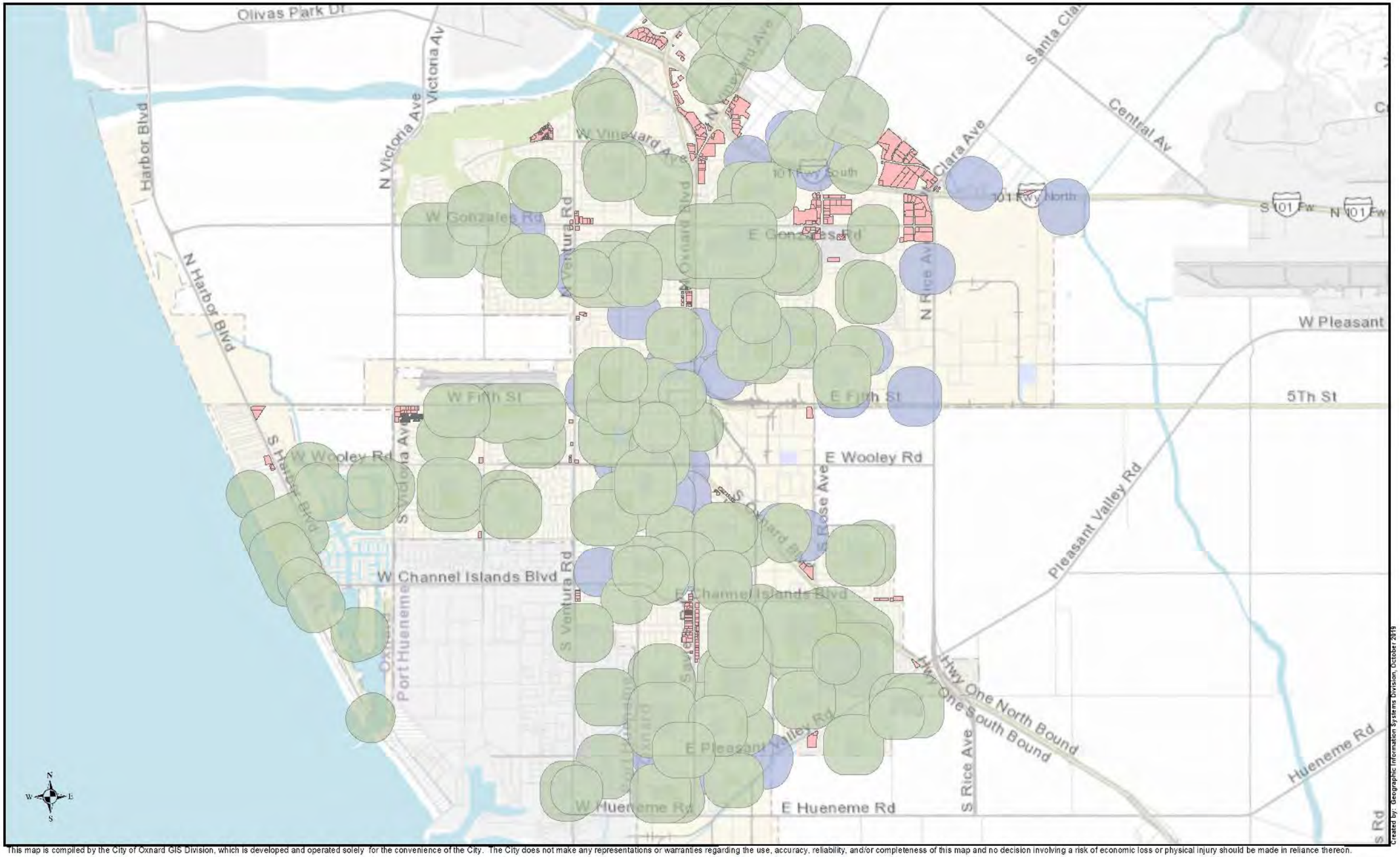
1000 ft Buffer, Non-Religious Sensitive Sites

Eligible Parcels After Instituting a 1000 ft Non-Religious Sensitive Area Buffer (585 parcels)

4,000 0 4,000 8,000 Feet

RETAIL MAP - SCENARIO 4

THIS IS A CONCEPTUAL MAP ONLY



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1000 ft Buffer, Non-Religious Sensitive Sites

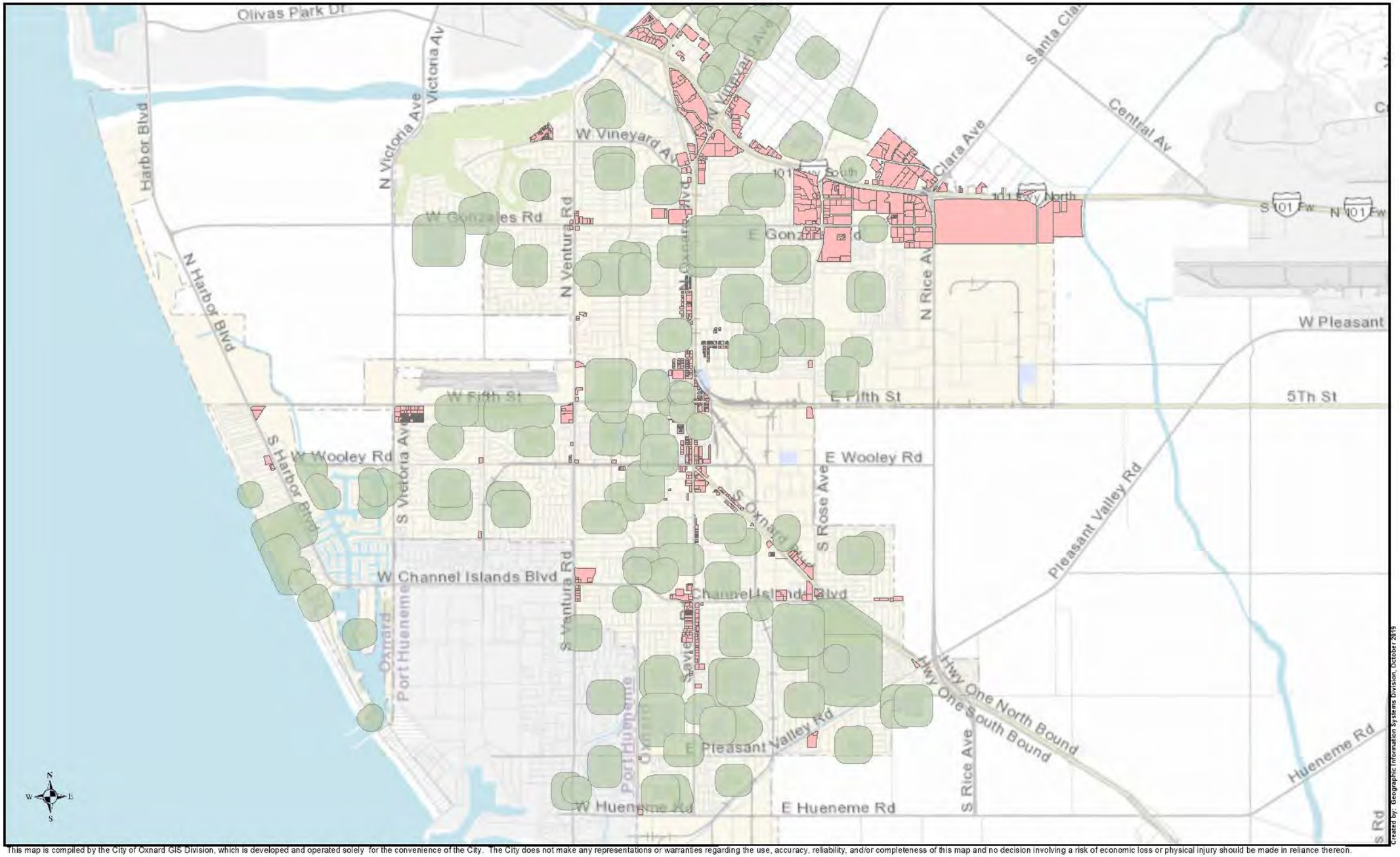
1000 ft Buffer, Religious Sensitive Sites

Eligible Parcels After Instituting a 1000 ft Religious & Non-Religious Sensitive Area Buffer (458 parcels)

4,000 0 4,000 8,000 Feet

RETAIL MAP - SCENARIO 5

THIS IS A CONCEPTUAL MAP ONLY



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Created by: Geographic Information Systems Division, October 2019

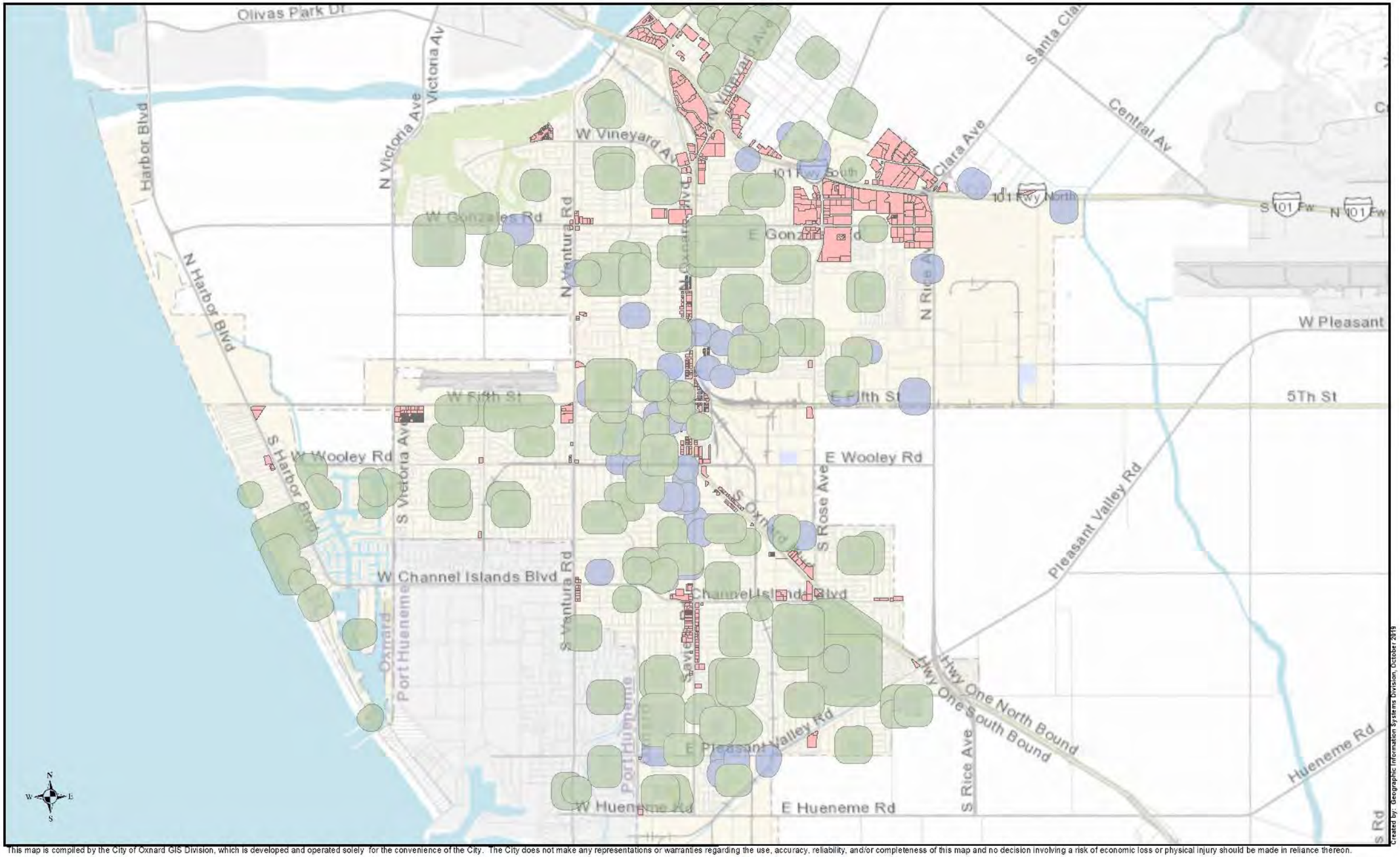
500 ft Buffer, Non-Religious Sensitive Sites

Eligible Parcels After Instituting a 500 ft Non-Religious Sensitive Area Buffer (1017 parcels)

4,000 0 4,000 8,000 Feet

RETAIL MAP - SCENARIO 6

THIS IS A CONCEPTUAL MAP ONLY



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500 ft Buffer, Non-Religious Sensitive Sites

500 ft Buffer, Religious Sensitive Sites

Eligible Parcels After Instituting a 500 ft Religious & Non-Religious Sensitive Area Buffer (837 parcels)

4,000 0 4,000 8,000 Feet

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC SECTIONS OF ARTICLE XVI, CHAPTER 11 AND CHAPTER 16 OF THE OXNARD CITY CODE REGARDING COMMERCIAL CANNABIS ACTIVITIES AND ADDING NEW REGULATIONS TO ALLOW RETAIL CANNABIS USES IN SPECIFIC LOCATIONS BY AMENDING SECTION 11-416(A), SECTION 11-433(B), SECTION 11-445, SECTION 11-446, AND SECTION 11-447; REPEALING SECTION 16-124(H) REGARDING THE PROHIBITION OF CANNABIS USES IN THE C-1 NEIGHBORHOOD SHOPPING CENTER ZONE; REPEALING SECTION 16-143 REGARDING PROHIBITING CANNABIS USES IN THE C-2 GENERAL COMMERCIAL ZONE; ADDING SECTION 16-131 REGARDING RETAIL CANNABIS USES IN THE C-1 NEIGHBORHOOD SHOPPING CENTER ZONE; ADDING SECTION 16-136(A)(25) REGARDING RETAIL CANNABIS USES IN THE C-2 GENERAL COMMERCIAL ZONE; AMENDING SECTION 16-173(B) REGARDING RETAIL CANNABIS USES IN THE BRP BUSINESS AND RESEARCH PARK; AMENDING SECTION 16-173(C) REGARDING RETAIL CANNABIS USES IN THE PLANNED DEVELOPMENT (ADDITIVE) ZONE; AND AMENDING 4.2.2 B. (BUSINESS PARK), 4.2.3., B (RETAIL COMMERCIAL), AND 4.2.4. B. (COMMERCIAL MANUFACTURING) OF THE ROSE SANTA CLARA CORRIDOR SPECIFIC PLAN SUBJECT TO THE REQUIREMENTS STIPULATED IN ARTICLE XVI OF CHAPTER 11,

The City Council of the City of Oxnard does hereby ordain as follows:

Section 1. Section 11-416(a) of the Oxnard City Code is amended to read as follows:

"(a) The number of each type of commercial cannabis business that shall be permitted to operate in the City at any one time shall be as follows:

(1) Cannabis Manufacturing - Maximum of eight (8) at any one time

(2) Cannabis Testing Lab - Maximum of one (1) at any one time

(3) Cannabis Distributor - Maximum of three (3) at any one time

(4) Cannabis Retail – Maximum of sixteen (16) at any one time

Section 2. Section 11-433(b) of the Oxnard City Code is amended to read as follows:

"(b) All cannabis retail dispensary businesses have been conceptually identified on land use maps, with actual siting subject to land use siting criteria and buffer requirements as stipulated in this ordinance. Retail dispensaries are conceptually permitted in property zoned Neighborhood Shopping Center (C-1), Neighborhood Shopping Center Planned Development (C-1-PD), General Commercial (C-2), or General Commercial, Planned Development (C-2-PD), and Commercial Planned Development (CPD), Business Park, Retail Commercial, and Commercial Manufacturing zones within the Rose Santa Clara Corridor Specific Plan. Retail dispensaries may also be located in the following Specific Plan areas subject to relevant Specific Plan requirements, and input from the Business Park Association (if operational): RiverPark -

commercial office, commercial convention, and commercial regional, Sakioka Farms, and Camino Real Business Park."

Section 3. Section 11-445 of the Oxnard City Code is amended to read as follows:

"Section 11-445. Operating Requirements for Store Front/Retail Facilities

(a) No more than the number of cannabis retailers authorized by Section 11-416 shall operate within the City of Oxnard at any one time.

(b) Approval of retail dispensaries shall be through approval of a Special Use Permit to be issued by the Planning Commission

(c) Retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not under the age of eighteen (18) years. If the potential customer is 18 to 20 years old, retailer shall confirm the customer's possession of a valid doctor's recommendation and/or Health and Safety Code Section 11362.71 identification card (Medical Marijuana Card). Persons 18 to 20 years old who are unable to produce either form of medical documentation cannot purchase cannabis legally and are to be denied admittance to the retail facility. For adult-use purchases, retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.

(d) Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retail area to separate it from the reception/lobby area. Individuals must show their government-issued identification, and, in the case of medical cannabis facilities, their physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71 in order to gain access into the retailer. The government-issued identification and, if applicable, doctor's recommendation or cannabis card must also be shown at the point of sale station at the time of purchase. Doctor recommendations are not to be obtained or provided at the retail location.

(e) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities. Security personnel may be allowed to carry firearms if authorized by the Chief of Police.

(f) Retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail sales area of the retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.

(g) All restroom facilities shall remain locked and under the control of management.

(h) Retailers authorized to conduct retail activities shall only serve customers who are within the licensed premises, or at a delivery address that meets the requirements of this division.

(1) The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.

(2) Retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.

(3) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.

(4) All cannabis goods sold by a retail business shall be contained in child-resistant packaging.

(5) Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.

(6) A retail licensee who is engaged in retail sale shall hire or contract for security personnel who are at least 21 years of age to provide security services for the licensed retail premises. All security personnel hired or contracted for by the licensee shall be licensed by the Bureau of Security and Investigative Services and shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.

(i) Access to Retailer Premises.

(1) Access to the premises of a retail licensee/permittee shall be limited to individuals who are at least 21 years of age.

(2) Notwithstanding Section 11-445(i)(1), individuals who are at least 18 years of age and in possession of a valid physician's recommendation shall be granted access to the premises of a retail licensee/permittee for the sole purpose of purchasing medicinal cannabis consistent with the physician's recommendation.

(j) Authorized Sales. A retailer shall only sell adult-use cannabis and adult-use cannabis products to individuals who are at least 21 years of age. A retailer shall only sell medicinal cannabis or medicinal cannabis products to individuals who are at least 18 years of age, but not yet 21, if those individuals are in possession of a valid physician's recommendation. Medicinal cannabis sales to individuals 21 years of age and older are unrestricted.

(k) Limited Access Areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the retailer, shall be escorted at all times by an employee of the licensee/permittee. A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the Chief of Police or the Development Services Director upon request.

(l) Operating hours of the Store Front Retailer License shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week or a reduced duration as stipulated through the discretionary permit.

(l) Parking requirements shall be in accordance with Chapter 16, Article X of the Oxnard City Code – 1 parking space per 250 sq. ft. or as stipulated in a City Traffic Engineer approved parking study.

(m) Store Front/Retail Security Requirements. All security measures required by Section 11-437 (Operational Standards) are directly applicable to and binding on all commercial cannabis businesses, including all Store Front/Retail businesses."

Section 4. Section 11-446 is amended to read as follows:

"Section 11-446. Operating Requirements for Non-Store Front Retailer.

(a) Non-Store Front Retailer (Delivery) License Owners and Operators are required to verify the age and the necessary documentation of each medical customer to ensure the customer is not under the age of eighteen (18) years, and to verify that the potential customer has a valid doctor's recommendation. Doctor recommendations are not to be obtained or provided at the retail location. The age verification requirement applies to both the customer and any person accepting delivery on behalf of the customer. If the latter, the individual must be at least 21 years of age.

(b) All Store Front Retailers, Non-Store Front Retailers (delivery) that conduct deliveries into or within the City of Oxnard shall be required to obtain a permit from the City of Oxnard in order to conduct retail sales regardless if they are located in the City or another local jurisdiction.

(c) Operating hours of the Non-Store Front Retailer License shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week or a reduced duration as stipulated through the discretionary permit.

(d) The commercial Non-Store Front Retailer shall only sell cannabis or cannabis products to a natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a physician's recommendation for cannabis medical use only, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71.

(e) The commercial cannabis Non-Store Front Retailer may only have on-site that quantity of cannabis and cannabis products reasonably anticipated to meet the weekly demand for which they may need to be readily available for sale."

Section 5. Section 11-447 is amended to read as follows:

"Section 11-447. Non-Store Front Retailer Vehicle Requirements.

Prior to commencing operations, a cannabis Non-Store Front Retailer shall provide the following information to the City.

(a) Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.

(b) The year, make, model, color, license plate number, and Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.

(c) Proof of insurance as required in Section 11-434(b) for any and all vehicles being used to deliver cannabis goods.

(d) The licensee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.

(e) The licensee shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days."

Section 6. Section 16-124(H) regarding prohibition of cannabis related uses in the C-1 Zone is hereby repealed.

Section 7. Section 16-131 is hereby added to read as follows:

"Section 16-131 Retail Cannabis Uses

Retail cannabis uses may be permitted in the C-1 Zone, provided that the owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code and a Special Use Permit. Commercial cannabis businesses not specifically authorized by this section are prohibited in the C-1 Zone."

Section 8. Section 16-136(A)(25) is hereby added to read as follows:

"(25). Retail cannabis uses, provided that the owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code."

Section 9. Section 16-143 regarding the prohibition of cannabis-related uses in the C-2 Zone is hereby repealed.

Section 10. Section 16-173(B) is amended to read as follows:

"B. A commercial cannabis business for retail uses may be permitted in the BRP Business and Research Park Zone, provided that the owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code and a Special Use Permit.

Section 11. Section 16-273(c) is amended to read as follows:

"C. A commercial cannabis business for retail uses may be permitted in the Planned Development (Additive) Zone, provided that the owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code and a Special Use Permit. A commercial cannabis business for manufacturing, testing and/or distribution of cannabis may be permitted in the Planned Development (Additive) Zone, provided that the

owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code and a Development Design Review (DDR) Permit."

Section 12. Section 4.2.2., B (Business Park) of the Rose Santa Clara Corridor Specific Plan is hereby amended to read as follows:

"5. Commercial Cannabis and cannabis retailer uses, subject to the requirement of Oxnard City Code, Chapter 11, Article XVI."

Section 13. Section 4.2.3., B (Retail Commercial) of the Rose Santa Clara Corridor Specific Plan is hereby amended to read as follows:

"5. Commercial Cannabis and cannabis retailer uses, subject to the requirement of Oxnard City Code, Chapter 11, Article XVI."

Section 14. Section 4,2,4, B., (Commercial Manufacturing) of the Rose Santa Clara Corridor Specific Plan is hereby amended to read as follows:

"5. Commercial Cannabis and cannabis retailer uses, subject to the requirement of Oxnard City Code, Chapter 11, Article XVI."

Section 15. If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

Section 16. Within 15 days after passage, the City Clerk shall cause a summary of this ordinance to be published one time in a newspaper of general circulation published and circulated in the City. Ordinance No. _____ was first read on _____, 2019, and finally adopted on A_____, 2019, to become effective thirty (30) days thereafter.

Section 17. This ordinance shall become effective thirty (30) days after it is finally adopted. The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

Planning and Zoning Permit No. 19-580-05 (Zoning Text Amendment) – Amendment to the Oxnard City Code to Create Regulations for Cannabis Retail Dispensaries

Jeffrey Lambert, Community Development Director
Kathleen Mallory, Planning & Sustainability Manager

December 3, 2019
City Council Meeting

CITY OF OXNARD CALIFORNIA

Background

Purpose is to consider Retail/Dispensary Regulations:

- Planning Commission and Housing and Economic Development Committee recommendations
- Siting Criteria
- Sensitive Use buffer considerations

2

Siting Criteria

- Per State regulations, any cannabis use cannot be located closer than 600-feet ("buffer") from a sensitive use.
  - *Sensitive use is a public/private or charter K-12 school, commercial day care center (not family day care), youth center, or public park.*
- Measurement is parcel line to parcel line.
- A jurisdiction can reduce and expand buffer if codified in a local ordinance.
- Per State law a "buffer" from a residential use to a "cannabis use" is NOT required.

3

Planning Commission Input

August 15th Planning Commission recommended:

1. Add residential land uses as a sensitive use and buffer of 600 feet.
   a. City Council input in Nov. 2018, did not include residential as a sensitive use.
   b. Staff's analysis determined this results in a large reduction in parcel availability: from 673 to 146 and was not consistent with the definition of most other jurisdictions.

1. Flavored vaping products should not be sold in retail dispensaries. Staff's analysis is that we could include prohibition through condition of approval process; but recommended that we continue to monitor legal implication.

4

Planning Commission Input

August 15th Commission recommended, continued:

3. Include new downtown zones - Downtown General (DT-G), and Downtown Core (DT-C).
   a. Staff is in support of this inclusion and determined that with the inclusion of two new downtown zones an additional 132 potential parcels may be available.

5

Housing & Economic Development Committee

October 22nd Housing and Economic Development Committee:

- Recommended study of potential dispensary impact by utilizing 500, 600 and 1,000 foot sensitive use buffer;
- Analyze the number of parcels impacted if the City included religious institutions in the definition of sensitive use;
- Suggested that if this new buffer analysis for churches resulted in a significant reduction in available locations, this may not be a reasonable limitation to include.

6

Housing & Economic Development Committee

Analysis of HEDC input. Potential dispensary parcels available with various sensitive use buffers follows:

1. State Sensitive locations (without religious locations) with 600 ft buffers (Scenario 1 Map) = **940 parcels**
2. Sensitive locations + religious institutions with 600 ft buffers (Scenario 2 Map)= **767 parcels**
3. State Sensitive locations (without religious locations) with 1000 ft buffers (Scenario 3 Map) = **585 parcels**
4. Sensitive locations plus religious institutions with 1000 ft buffers (Scenario 4 Map) = **458 parcels**

7

Housing & Economic Development Committee

Analysis of HEDC input, continued:

5. State Sensitive locations (without religious locations) 500 ft buffers (Scenario 5 Map) = **1017 parcels**

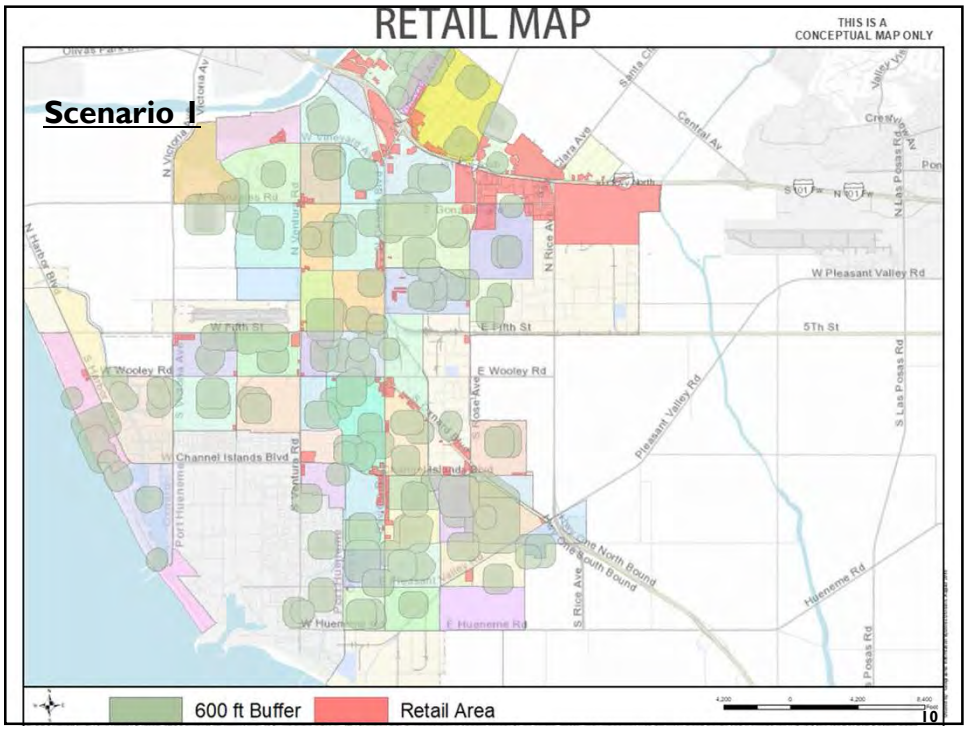
6. Sensitive locations plus religious institutions with 500 ft buffers (Scenario 6 Map) = **837 parcels**

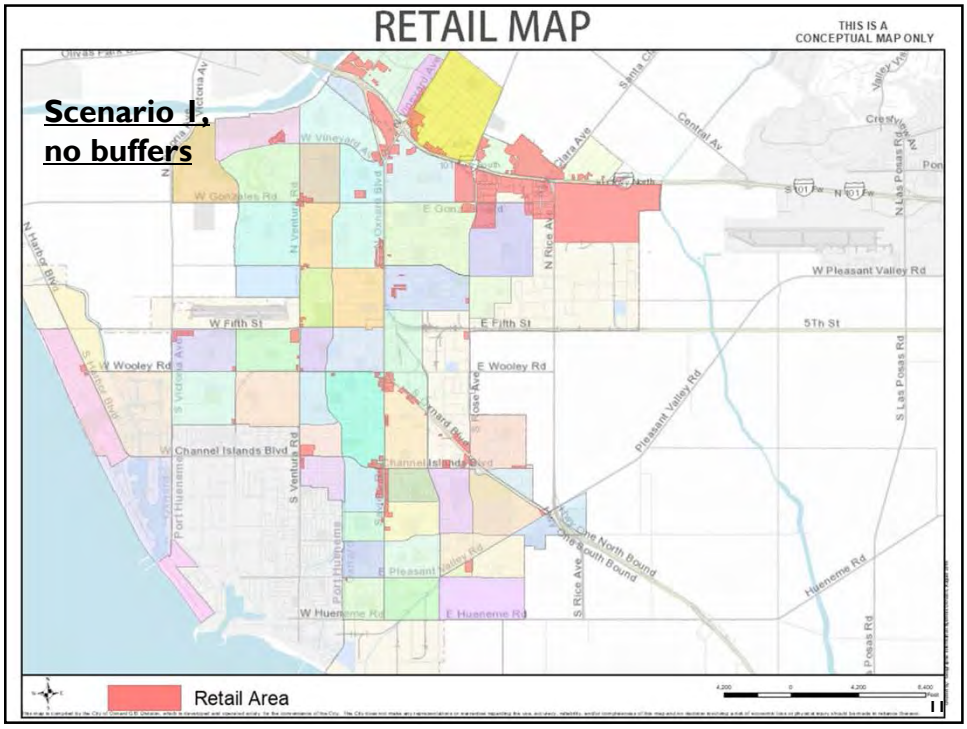
8

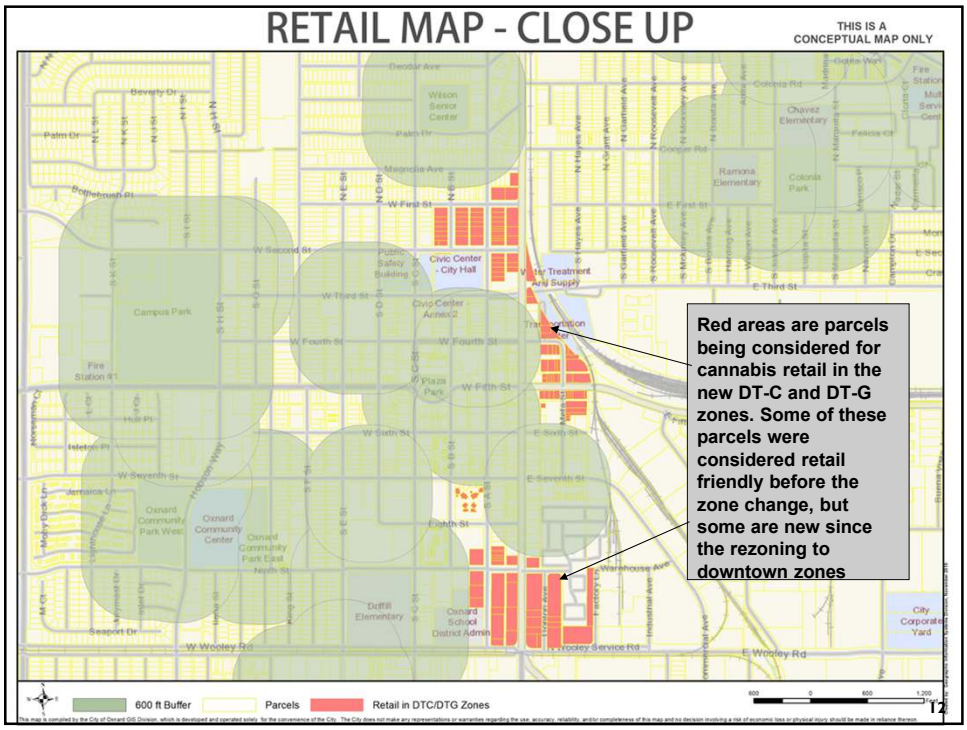
Overview of Maps

- Maps on the following slides identify potential cannabis locations; implements 600-foot State buffer requirement - does not consider residential a sensitive use.
- Does not include religious institution in definition of sensitive use.
- Identify retail locations by shopping center and stand alone commercial parcels which meet the definition of feasible commercial parcels.
- Conceptual locations, pending evaluation and analysis of location, proposal, and use.

9

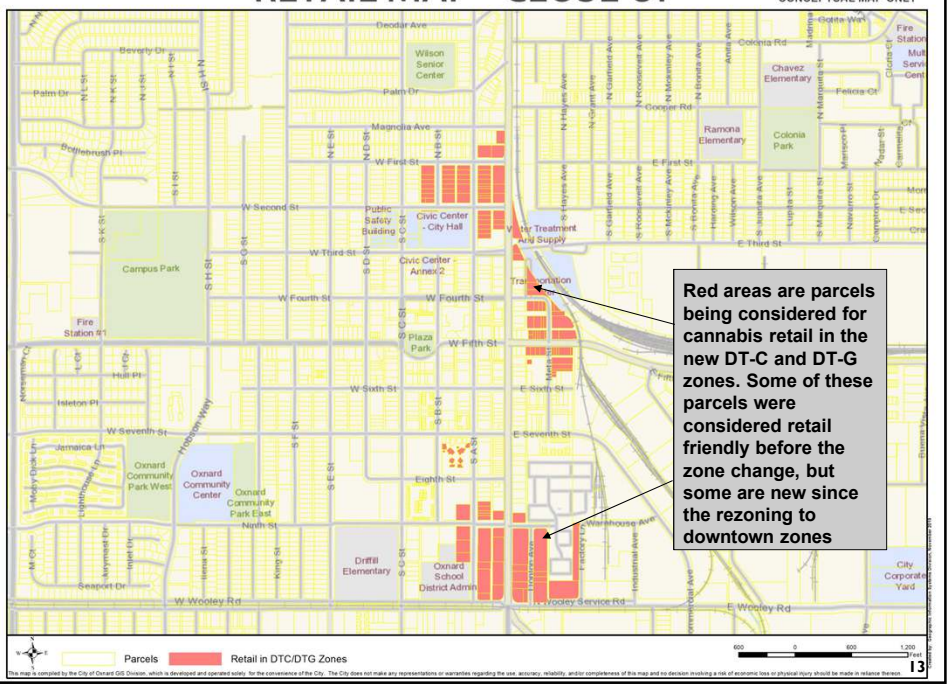



RETAIL MAP
THIS IS A CONCEPTUAL MAP ONLY
Scenario 1, no buffers
W Vineyard Ave
W Gonzales Rd
E Gonzales Rd
N Ventura Rd
S Ventura Rd
N Oxnard Blvd
S Oxnard Blvd
N Rice Ave
S Rice Ave
Clara Ave
Central Ave
Santa Clara
Valley Vista
Crestview
N Las Posas Rd
S Las Posas Rd
N Harbor Blvd
S Harbor Blvd
W Pleasant Valley Rd
5Th St
W Fifth St
E Fifth St
W Wooley Rd
E Wooley Rd
S Victoria Ave
S Rose Ave
Pleasant Valley Rd
W Channel Islands Blvd
Channel Islands Blvd
Port Hueneme
E Pleasant Valley Rd
W Hueneme Rd
E Hueneme Rd
Hueneme Rd
Ventura North Bound
Ventura South Bound
Retail Area
11


RETAIL MAP - CLOSE UP
THIS IS A CONCEPTUAL MAP ONLY
Red areas are parcels being considered for cannabis retail in the new DT-C and DT-G zones. Some of these parcels were considered retail friendly before the zone change, but some are new since the rezoning to downtown zones
Civic Center - City Hall
Wilson Senior Center
Chavez Elementary
Ramona Elementary
Campus Park
Plaza Park
Oxnard Community Park West
Oxnard Community Center
Oxnard Community Park East
Doffil Elementary
Oxnard School District Admin
City Corporate Yard
W First St
W Second St
W Third St
W Fourth St
W Fifth St
W Sixth St
E Sixth St
W Seventh St
E Seventh St
Eighth St
W Wooley Rd
E Wooley Rd
W Wooley Service Rd
Warehouse Ave
Seaport Dr
600 ft Buffer
Parcels
Retail in DTC/DTG Zones
12

RETAIL MAP - CLOSE UP

THIS IS A CONCEPTUAL MAP ONLY



13

Proposed Retail Ordinance

- All retail dispensaries require a Special Use Permit (SUP).
- Some Specific Plan areas permit retail dispensaries, and other cannabis uses (Rose Santa Clara, and Sakioka).
- Permitted in Commercial zones with Special Use Permit in C-1, C-2, CPD; not permitted in coastal zone at this time.
- Create operating requirement for storefront/retail and non-storefront retail facilities.
- Create delivery regulations for dispensaries.
- All ord requirements are based upon collaboration with Fire and Police Depts., City Manager and City Attys offices, and meetings with Finance Dept. and HdL.

14

Best Practices

- On-site security personnel required.
- Emergency response plan required (fires, robberies, evacuations).
- Alarm system and yearly inspections required.
- First responder access (emergency access).
- Cash handling plan required.
- Cameras for surveillance; collaboration with Police Dept.
- Buzz to enter; development of system requirements and protocols with Police Dept.

15

Best Practices (Continued)

- Submittal of verification data (track and trace).
- Inventory control to include regular checks.
- Surveillance cameras (monitor entire site).
- Inventory secured when business is closed.
- Ongoing training for all employees.
- Limited inventory on display.
- Employees subject to background check.
- All inventory and sales reconciled each day.
- Consideration to neighborhood compatibility – noise, traffic/parking.

16

Permit Review Steps

1. Phase 1
   a. Secure Zoning Verification Letter ("ZVC") from the Oxnard Planning Division.
   b. Complete request for Live Scan/Background check through the Oxnard Police Department.
   c. Submit application and determination of eligibility (Phase 1).
2. Application evaluation and initial ranking (Phase 2).
3. Interviews and second ranking (Phase 3).
4. Authorization to file an application seeking a commercial cannabis business permit (Phase 4) (Special Use Permit).

17

Cannabis Processing Steps

- Permit process the same regardless of type of cannabis business (Downtown Design Review vs. Special Use Permit).
- Requirements and vetting of applications through a competitive multi-step process.
  - Ensures City received most viable and desirable cannabis businesses.
- Applications and fee payments required for each step in the permitting process; must receive favorable recommendation to advance through the permit process.

18

Status and Next Steps

- Local Equity meeting on Oct. 2nd:
  - Program to be presented to City Council in Winter 2020
- Manufacturing, testing, and distribution application window closed on Oct. 10th.
- Should Retail/dispensary ordinance be approved, second reading on Dec. 17th; effective Jan. 17th.
- Retail/dispensary application process could open in early February 2020.
  - Anticipate it to take 3-4 months until ranking and Special Use Permit applications could be accepted.

19

Recommendation

That the City Council approve the first reading by title only of an Ordinance to regulate retail cannabis within Chapters 11 and 16 of the Oxnard City Code pertaining to permitting and siting of cannabis dispensaries.

20

RETAIL MAP - SCENARIO 2

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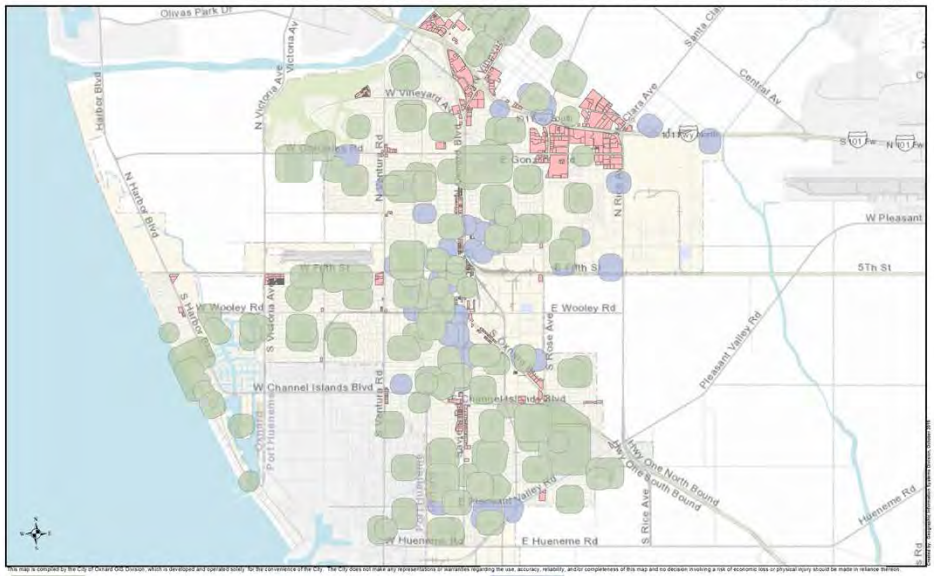


600 ft Buffer, Non-Religious Sensitive Sites

600 ft Buffer, Religious Sensitive Sites

Eligible Parcels After Instituting a 600 ft Religious & Non-Religious Sensitive Area Buffer (767 parcels)

21

RETAIL MAP - SCENARIO 3

THIS IS A CONCEPTUAL MAP ONLY

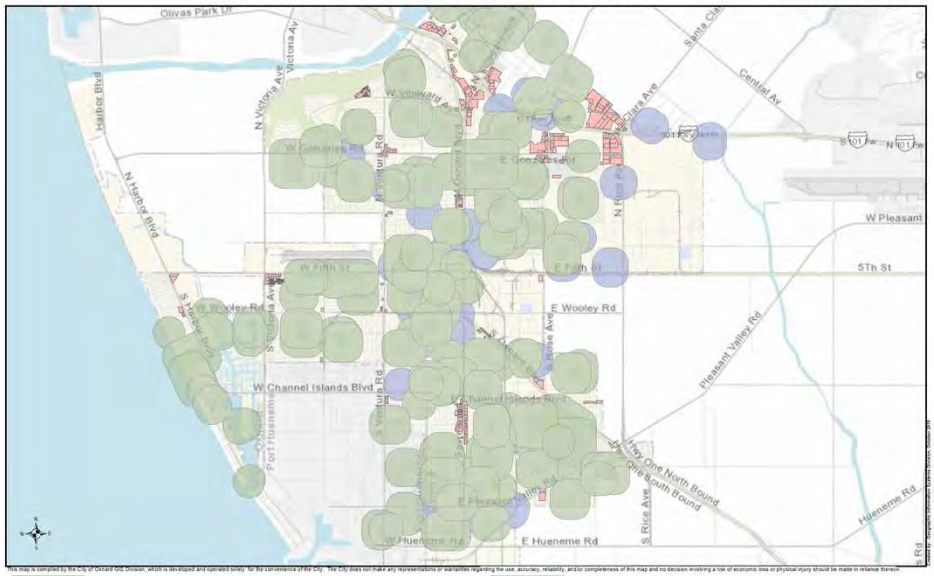
1000 ft Buffer, Non-Religious Sensitive Sites

Eligible Parcels After Instituting a 1000 ft Non-Religious Sensitive Area Buffer (585 parcels)

22

RETAIL MAP - SCENARIO 4

THIS IS A CONCEPTUAL MAP ONLY



This map is compiled by the City of Oxnard GIS Division, which is developed and operated solely for the convenience of the City. The City does not make any representations or warranties regarding the use, accuracy, reliability, and/or completeness of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereof.

1000 ft Buffer, Non-Religious Sensitive Sites

1000 ft Buffer, Religious Sensitive Sites

Eligible Parcels After Instituting a 1000 ft Religious & Non-Religious Sensitive Area Buffer (458 parcels)

4,000 0 4,000 Feet

23

RETAIL MAP - SCENARIO 5

THIS IS A CONCEPTUAL MAP ONLY

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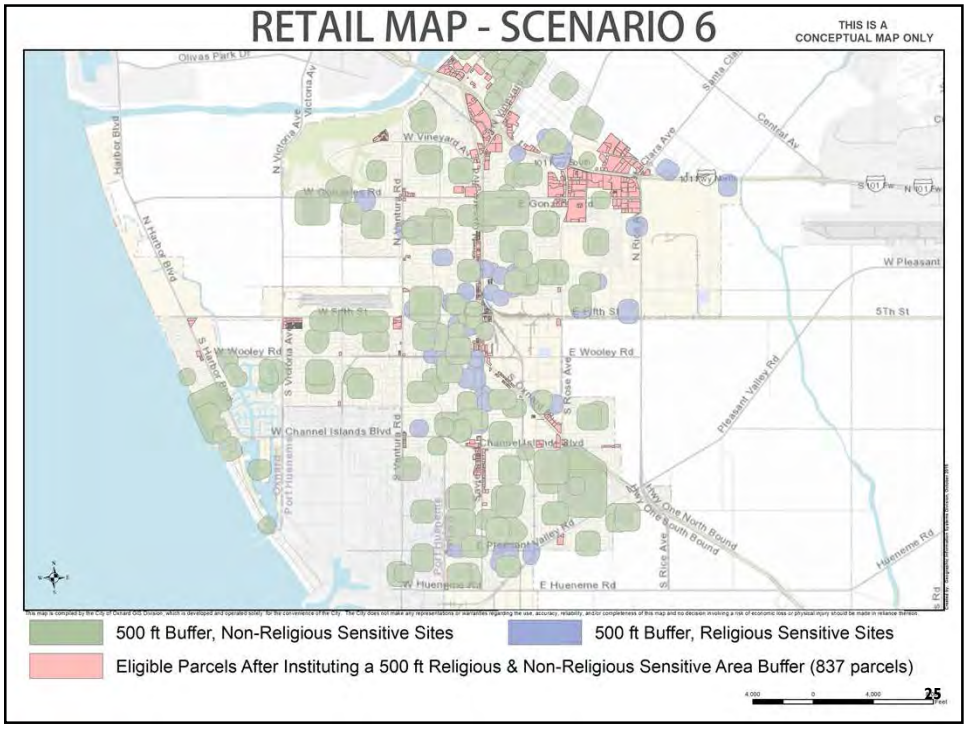
500 ft Buffer, Non-Religious Sensitive Sites

Eligible Parcels After Instituting a 500 ft Non-Religious Sensitive Area Buffer (1017 parcels)

4,000 0 4,000 Feet

24


RETAIL MAP - SCENARIO 6
THIS IS A CONCEPTUAL MAP ONLY
Olivas Park Dr
Harbor Blvd
N Victoria Ave
Victoria Ave
W Vineyard Ave
Vineyard Ave
Santa Clara Ave
Central Av
W Gonzales Rd
E Gonzales Rd
N Ventura Rd
N Rose Ave
W Pleasant
W Fifth St
E Fifth St
5Th St
W Wooley Rd
E Wooley Rd
S Harbor Blvd
S Victoria Ave
S Rose Ave
Pleasant Valley Rd
W Channel Islands Blvd
E Channel Islands Blvd
S Ventura Rd
Port Hueneme
Hwy One North Bound
Hwy One South Bound
Pleasant Valley Rd
S Rice Ave
Hueneme Rd
W Hueneme Rd
E Hueneme Rd
500 ft Buffer, Non-Religious Sensitive Sites
500 ft Buffer, Religious Sensitive Sites
Eligible Parcels After Instituting a 500 ft Religious & Non-Religious Sensitive Area Buffer (837 parcels)
25

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS
AGENDA ITEM NO. L.2.

DATE: December 3, 2019

TO: City Council

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Planning and Zoning Permit No. 19-580-04 - Zoning Text Amendment to Create Regulations for Short Term Rentals. (5/10/10)

RECOMMENDATION

That the City Council:
1. Conduct a public hearing;
2. Determine the zoning text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations;
3. Introduce by title only and waive further reading of the following Ordinances by title only approving the following amendments to Chapters 7 (Nuisances), 16 (Zoning Code) and 17 (Coastal Zoning) of the Oxnard City Code:
   a. Chapter 7: modify Section 7-56 (Civil Fines: Amounts) to establish fine amounts for violations;
   b. Chapter 16: add Article XI to Chapter 16 regarding short-term rentals; add Subsection (19) to Section 16-21 (B) to the Residential Single-Family Zone and amend Section 16-148, Table 16-148 of the Downtown Code, add short-term rentals as an allowed, by right residential use in the DT-E, DT-G and DT-C zones subject to Article XI of Chapter 16;
   c. Chapter 17: add Section 17-53 to Chapter 17 in Article IV regarding short term rentals and amend Chapter 17 of the Oxnard City Code by adding Subsection (B) (10) to Section 17-10; R-B-1, Single-Family Beach, Sub-Zone; Subsection (B) (10) to Section 17-11. R-W-1, Single-Family Water-Oriented, Sub-Zone; Subsection (B) (10) to Section 17-12. R-W-2, Townhouse Water-Oriented, Sub-Zone; Subsection (B) (10) Section 17-13; R-2-C, Coastal Multiple-Family, Sub-Zone; Subsection (B) (10) to Section 17-14; R-3-C, Coastal Medium Density Multiple-Family, Subsection (B) (3) to Section 17-15; CPC, Coastal Planned Community Sub-Zone; and Subsection (B) (9) to Section 17-25; R-BF, Beachfront Residential, Sub-Zone regarding allowing short-term rental units subject to Section 17.53;
   d. Incorporate the following revisions to the ordinances that were proposed at the November 5, 2019 hearing: (1) include a 200' separation between STRs, (2) remove language that prohibits outdoor amplified music during quiet hours and rely on the existing sound regulations in Chapter 7, Article XI, (3) prohibit STRs in the Colony and Harbour Island HOAs, and (4) include exemptions for existing timeshare properties.

BACKGROUND

Executive Summary

On November 5, 2019, the City Council held a public hearing regarding the Short Term Rental ordinances. Based upon City Council input and public comment, as well as subsequent staff analysis, the proposed Short Term Rental ordinances have been modified as follows: (1) include a 200' separation between STRs, (2) remove language that prohibits outdoor amplified music during quiet hours and rely on the existing sound regulations in Chapter 7, Article XI, (3) prohibit STRs in the Harbour Island development (in addition to prohibiting STRs at The Colony), and (4) allow STRs in timeshare properties that were in existence as of January 1, 2019. Because of the directed changes to the STR ordinances, the ordinances are being brought back to the City Council for consideration as a new first reading of the ordinances.

ANALYSIS/DISCUSSION

The proposed ordinances establish a comprehensive set of operating requirements and performance standards for STRs. STRs include both vacation rentals and homeshares; both are defined as dwellings that are rented for a period less than 30 days. However, a homeshare must be the owner's primary residence and the owner must be present in the dwelling while it is being rented. Owners of vacation rentals need not be present when renting out the dwelling.

There will be two separate STR ordinances. The non-coastal ordinance will be placed in Chapter 16-Zoning Code (Attachment 2) and the coastal ordinance in Chapter 17-Coastal Zoning (Attachment 3). A third ordinance makes modifications to civil fine established within Chapter 7-Nuisances (Attachment 4).

City Council Recommendations

The following table summarizes the City Council's position as stated at the November 5th hearing.

	HEDC Recommendation Sept. 24, 2019	City Council Revisions Nov. 5, 2019	Action
1.	Provide analysis of 100' and 200' separation between STRs.	The separation should be 200' between STRs.	The ordinance requires a 200' separation between STRs.
2.	No outdoor amplified music during quiet hours; otherwise the existing sound regulations apply (OCC Section 7-185).	Rely on existing sound regulations in Chapter 7, Article XI (Chapter 7, Article XI) 55 dBA at property line between 7 am and 10 pm. 50 dBA at property line between 10 pm and 7 am.	The ordinance requires that STRs comply with the existing sound regulations.
3.	The Colony at Mandalay Beach be added to the list of ineligible dwellings for STR permits.	Include The Colony at Mandalay Beach as ineligible units. Review CC&Rs for The Harbour Island condominiums and include as ineligible dwellings if the CC&Rs would prohibit STRs.	The Colony at Mandalay Beach and the Harbour Island condominiums are included as ineligible dwellings for STR permits.
4.	Not discussed	Include exemptions to the separation requirement and 100-day annual cap for timeshares.	Timeshares are exempt from the 200' separation requirement and from the 100-day annual cap.

Separation Analysis

The City Council felt that a 100-foot separation requirement would not provide for adequate distance between STRs. Based on Staff analysis, although it is possible to achieve the 5% cap and maintain a 200 foot separation between STRs in every coastal neighborhood except the Dunes, the more likely scenario with a 200 foot separation requirement is that every coastal neighborhood will be below the 5% cap.

Amplified Music

The City Council was concerned that the language of the STR ordinance was not explicit enough as it relates to exterior noise. The City's existing sound regulations state that noise levels in residential zones that are above 55 dBA between the

hours of 7 a.m. and 10 p.m. and above 50 dBA between 10 p.m. and 7 a.m. as measured at the property line of the property suspected of violating the sound regulations constitutes a violation of the sound regulations. Council recommended that the STR ordinances rely upon the existing sound regulations.

Ineligible Dwelling Units

Based on the recommendations of the Housing and Economic Development Committee at the September 24, 2019 meeting, the City Attorney's Office reviewed the existing Covenants, Conditions, and Restrictions (CC&Rs) of The Colony at Mandalay Beach Owner's Association. The City's review of the existing CC&Rs resulted in a recommendation that the 440 units at The Colony at Mandalay Beach be included as ineligible dwelling units in regards to STRs. At the City Council meeting of November 5, 2019 the Harbour Island condominium association requested that the 129 units in their association also be made ineligible based on the similarity of their existing CC&Rs to the CC&Rs of The Colony. The City Attorney's office has reviewed the Harbour Island condominiums CC&Rs and agrees that the two CC&Rs are similar. The City Attorney's office recommends that these 129 units be added to the list of ineligible dwelling units in regards to STRs.

Timeshare Exemptions

During the November 5, 2019 meeting, it was brought to the City Council's attention that existing timeshares operating in the Oxnard Shores neighborhood in the Coastal Zone have units that operate as short-term rentals during periods when there is availability. Timeshares are a unique form of property ownership. Units are sold as time segments which consist of a period of occupancy of not less than one week or greater than 30 days with an annual right to use the unit. The rights to use a unit for the annual period are often traded to exchange companies or granted to individuals other than the owners in exchange for a fee. Due to the unique ownership of timeshares, the City Council recommended that existing timeshares, when the right to use is traded or exchanged for a fee, shall be licensed and operate as short-term rentals and abide by all of the rules of the short-term rental ordinance except timeshares do not need to comply with the 200 foot separation requirement. Staff also recommends that the timeshares not be subject to the 100-day per year cap that will be applied to other STRs.

ENVIRONMENTAL IMPACT

In accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), Planning staff have determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations (Attachment 7).

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Objective 1e. Develop a rental inspection program.

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

This agenda item supports the Economic Development Strategy. The purpose of the Economic Development Strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Objective 1a. Focus available resources on a comprehensive effort to promote economic activity in Oxnard, including a marketing program that communicates the City's available resources and assets.

Goal 2. Enhance business development throughout the City.

Objective 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates employment opportunities, and generates public revenue.

Objective 2c. Capitalize on historic, cultural and natural resources.

Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

FINANCIAL IMPACT

The City will not receive revenues from newly permitted STRs within the Coastal Zone until the Coastal Commission approves the new STR regulations within the Coastal Zone (Oxnard City Code Section 17-53) pursuant a Coastal Development Permit. The proposed STR regulations outside of the Coastal Zone (adding Article XI to Chapter 16 of the Oxnard City Code) would become effective 30 days after the City Council adopts the ordinance.

Once the recommended STR ordinances received final approval, the ordinances would raise revenue for the General Fund in four different ways:

1. Short-term rental permit (annual): Staff is currently completing a cost analysis to determine the fee amount required to fully recover the cost of administering the STR program. Since the STR permit fee would be limited to cost recovery, this revenue source would have no net impact on the General Fund. It should be noted that as the City implements provisions to limit STRs, it will be more challenging to ensure sufficient funding from fees will be in place to ensure adequate enforcement of these regulations. Staff will return to Council with a fee structure that reflects the final approved regulations.

2. Progressive fines for misdemeanor violations: Ideally, the City will not need to assess any fines because all STR owners will comply with the ordinance. To the extent they do not, however, the progressive fines could generate noticeable new revenue for the General Fund. For example, with a cap of 206 STRs in the Coastal Zone; and if only 5% of those STRs incur two fines per year, then annually the General Fund revenue would increase by $30,900 (.05 * 206 * ($1,000 + $2,000)). There will, however, be costs associated with these enforcement actions.

3. Business tax revenue: With the cap in the Coastal Zone of 206 STRs and a business license tax of approximately $300.00 per year, the General Fund would receive $61,800 annually for STRs in the Coastal Zone if 206 STRs were permitted within the Coastal Zone. The City would also receive a business license tax for STRs located outside of the Coastal Zone.

4. Transient Occupancy Tax revenue: There are many variables in estimating new TOT revenue to be paid by STRs. The following example is not a projection, but merely an illustration of how to estimate revenue under any given set of assumptions. Assuming 206 STRs in the Coastal Zone, 100 days per year rental, an average rental price of $350.00 per night, the current TOT tax rate of 10% then the General Fund revenue from STRs in the Coastal Zone would be:

$721,000.00. (206 STR's * 100 days rented * $350/day * 10% T.O.T. rate = $721,000). The amount of revenue generated will fluctuate significantly per year based on the variables including (but not limited to) the number of STRs that are actually permitted within the Coastal Zone and within other areas of the City.

The FY 2019-20 Adopted Budget does not assume any General Fund revenue from these sources. If approved, these new revenues will be added to the next General Fund forecast.

COMMITTEE OUTCOME

This item is a public hearing and was heard by the Planning Commission and presented to the Housing and Economic Development Committee (HEDC). The recommendations of both the Planning Commission and HEDC are fully elaborated in this report.

Prepared by: Paul McClaren, Associate Planner

ATTACHMENTS

1. November 5, 2019 City Council Staff Report
2. CH 16 - Short Term Rental Ordinance
3. CH 17 - Short Term Rental Ordinance - Coastal
4. CH 7 - Fines Ordinance
5. Redline Short Term Rental Ordinance (Coastal)
6. Redline Short Term Rental Ordinance
7. Notice of Exemption
8. STR Ordinance PPT CC 12.03

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS
AGENDA ITEM NO. L.2.

DATE: November 5, 2019

TO: City Council

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Planning and Zoning Permit No. 19-580-04 - Zoning Text Amendment to Create Regulations for Short Term Rentals, to include recommendations of the City Council Housing and Economic Development Committee (HEDC). (10/30/20)

RECOMMENDATION

That the City Council:
1. Receive a report regarding the regulations for Short Term Rentals;
2. Open a public hearing;
3. Determine the zoning text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations;
4. Introduce by title only and waive further reading of the following Ordinances by title only approving the following amendments to Chapters 7 (Nuisances), 16 (Zoning Code) and 17 (Coastal Zoning) of the Oxnard City Code:
   a. Chapter 7: modify Section 7-56 (Civil Fines: Amounts) to establish fine amounts for violations;
   b. Chapter 16: add Article XI to Chapter 16 regarding short-term rentals; add Subsection (19) to Section 16-21 (B) to the Residential Single-Family Zone and amend Section 16-148, Table 16-148 of the Downtown Code, add short-term rentals as an allowed, by right residential use in the DT-E, DT-G and DT-C zones subject to Article XI of Chapter 16;
   c. Chapter 17: add Section 17-53 to Chapter 17 in Article IV regarding short term rentals and amend Chapter 17 of the Oxnard City Code by adding Subsection (B) (10) to Section 17-10; R-B-1, Single-Family Beach, Sub-Zone; Subsection (B) (10) to Section 17-11. R-W-1, Single-Family Water-Oriented, Sub-Zone; Subsection (B) (10) to Section 17-12. R-W-2, Townhouse Water-Oriented, Sub-Zone; Subsection (B) (10) Section 17-13; R-2-C, Coastal Multiple-Family, Sub-Zone; Subsection (B) (10) to Section 17-14; R-3-C, Coastal Medium Density Multiple-Family, Subsection (B) (3) to Section 17-15; CPC, Coastal Planned Community Sub-Zone; and Subsection (B) (9) to Section 17-25; R-BF, Beachfront Residential, Sub-Zone regarding allowing short-term rental units subject to Section 17.53;
   d. Incorporate the following revisions to the proposed ordinances: (1) include a 100' separation between STRs, (2) add a 5% cap to the R-BF zone, (3) limit annual rental days to 100, (4) require property manager/owner to be within 25 miles of the STR, (5) prohibit outdoor amplified music during quiet hours, (6) include parking limitations on STR advertisements, and (7) increase fines as noted; and
5. Set the Ordinances for a second reading and adoption at the City Council meeting of November 19, 2019.

BACKGROUND

Executive Summary: *Given the feedback from the community, the Planning Commission and the City Council Housing and Economic Development Committee, staff is recommending the following provisions: (1) include a 100' separation between STRs, (2) add a 5% cap to the R-BF zone, (3) limit annual rental days to 100, (4) require property manager/owner to be within 25 miles of the STR, (5) prohibit outdoor amplified music during quiet hours, (6) include parking limitations on STR advertisements, (7) increase fines as noted, and (8) prohibit STRs in the Colony.*

Two Ninth Circuit cases indicate that an STR ban such as that adopted by Santa Monica does not violate the federal First Amendment, dormant Commerce Clause or Communications Decency Act, the two cases do not provide any legal authority under state law or state regulations for a California coastal city to ban STRs.

Right now, there is only one recent published California decision regarding STRs -- Greenfield v. Mandalay Shores Community Association (2018) 21 Cal. App. 5th 896. That case stated: "The decision to ban or regulate STRs must be made by the City and Coastal Commission, not a homeowners association." (Id. at 901-902.)

The City has been engaging the community regarding permitting and regulations for Short Term Rentals (STRs) for more than three years. The public outreach efforts during this time period include:

- March 2016, the City conducted an online community survey that contained a series of questions designed to receive public input on STRs.
- August 16, 2016, staff conducted a community workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions.
- November 3, 2016, the Planning Commission conducted a study session to receive input on specific STR regulations.
- June 1, 2017, the Planning Commission conducted a public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting, and the STR processing guidelines. No clear policy direction was communicated.
- February 26, 2019, the Housing and Economic Development Committee (HEDC) met to discuss policy questions and provided the following comments: 1. Consider allowing STRs only in designated geographic areas; 2. Consider the California Coastal Commission's position on STRs; and 3. Direct staff to prepare recommendations based on best practices for City Council.
- March 25, 2019, City Council held a special meeting and received public input and provided direction to staff. Council indicated three key areas for the staff to report back on when drafting a STR ordinance: 1. Enforcement; 2. Limiting the number of STRs, and 3. How to address and permit existing STRs.
- July 9, 2019, the HEDC met to discuss the draft ordinance with a focus on proposed changes to the ordinance, including the maximum number of days per year a residence could be used as a STR, the required minimum number of nights per rental, and the establishment of a cap on the number of STRs by neighborhood.
- August 1, 2019, the Planning Commission held a public hearing on the draft ordinance and recommended approval with modifications. Those recommendations were taken back to the HEDC and are covered in the discussion below.
- September 24, 2019, the HEDC, with Councilmember Lopez absent, received a summary report on the Planning Commission recommendations and provided input on the recommendations. The input is summarized in the discussion below.

ANALYSIS/DISCUSSION

The proposed ordinances establish a comprehensive set of operating requirements and performance standards for STRs. STRs include both vacation rentals and homeshares; both are defined as dwellings that are rented for a period less than 30 days. However, a homeshare must be the owner's primary residence and the owner must be present in the dwelling while it is being rented. Owners of vacation rentals need not be present when renting out the dwelling.

There will be two separate STR ordinances. The non-coastal ordinance will be placed in Chapter 16-Zoning Code (Attachment 2) and the coastal ordinance in Chapter 17-Coastal Zoning (Attachment 3). A third ordinance makes modifications to civil fine established within Chapter 7-Nuisances (Attachment 1).

Subject to specific permitting requirements, short-term rentals will be allowed in the following zones:

Non-Coastal Zones	

Residential Single -family	R-1
Multi-family	R-2
Garden Apartment	R-3
High Rise Residential	R-4
Downtown Edge	DT-E
Downtown General	DT-G
Downtown Core	DT-C
Coastal Zones	
Single-family Beach	R-B-1
Single-family Water-oriented	R-W-1
Townhouse Water-oriented	R-W-2
Coastal Multiple-family	R-2-C
Coastal Medium Density Multiple-family	R-3-C
Coastal Planned Community	C-P-C

Planning Commission and HEDC Recommendations

The following table summarizes the HEDC's position as stated at the September 24th meeting regarding each recommendation.

	Staff Recommendation July 9, 2019	HEDC Outcome July 9, 2019	Planning Commission Recommendation August 1, 2019	HEDC Recommendation Sept. 24, 2019
1.	No separation required between STRs.	Analyze 300' & 500' separation requirement.	300' separation between STRs.	Provide analysis of 100' and 200' separation between STRs.
2.	No cap to the number of STRs.	5% cap per General Plan neighborhood	5% cap in R-BF zone (in addition to a 5% cap per General Plan neighborhood).	Supported the Planning Commission's Recommendation.
3.	No limit to the number of nights a STR can be rented.	2 committee members supported the 180-day annual cap per year, 1 committee member did not.	100-day annual cap per year (instead of 180-day cap).	One Council member expressed support, one Council member did not support, and the third Council member was absent from the HEDC meeting.
4.	Property manager to be within 40 miles.	This was not discussed.	Distance of property manager/owner (25 miles).	Supported the Planning Commission's Recommendation.
5.	No outdoor amplified music during quiet hours.	This was not discussed.	No outdoor amplified music.	No outdoor amplified music during quiet hours; otherwise the existing sound regulations apply (OCC Section 7-185).
6.	Parking required based on bedroom count included. Aligned with OCC.	This was not discussed.	Prohibit STRs from using on-street parking.	Support requiring specific number of on-site parking spaces and requirement to include the number of on-site spaces in advertisements and contracts.

7.	Fines to conform to existing civil fines in the OCC.	This was not discussed.	Higher escalating fines.	Supported the Planning Commission's Recommendation.

The HEDC also added a recommendation to include the Planned Development Community known as the Colony at Mandalay Beach to the list of units that are not eligible for STR permits.

Focus of Planning Commission and HEDC Discussion

The following regulations have been the focus of discussions at various public meetings:

1. STR Separation requirement,
2. Limiting the number of allowed STRs in the City: a.) 5% cap in the R-BF zone, and b.) Prohibition of STRs in the Colony, and
3. Establish a maximum time a property could be utilized as a STR (100 or 180 days).

Separation Analysis

Staff did not recommend a separation between STRs to the HEDC in July; however, the Planning Commission asked that staff analyze a separation requirement between STRs so that an overconcentration of STRs would not occur. The HEDC at their September 24, 2019 meeting recommended the analysis be expanded to include a 100 and 200-foot separation analysis.

An analysis was completed for the four neighborhoods in the Coastal Zone and for RiverPark. The analysis included a 100 foot radius and then intervals of 50 feet up to 250 feet. Attachment 4 is a table of the results. The total number of units by separation distance and under perfectly spaced conditions is provided. Since conditions will rarely result in perfectly spaced STRs, the total number of STRs would most likely be 50-60% of the number shown in this column. The total number of units by 5% cap is also provided. The analysis is based on the separation requirement first, then the 5% cap.

The ordinance is worded so that the separation requirement is applied first when analyzing an application and then the 5% cap is applied. With a 200 or 250-foot separation distance, none of the neighborhoods would ever reach the 5% cap number. With a 150-foot separation, Oxnard Shores and Channel Islands would be limited by the 5% cap, however, the Dunes and Hollywood by the Sea would not reach the 5% cap number. At a 100-foot separation, all of the neighborhoods would be limited by the 5% cap number. As previously reported, the total number of STRs citywide is estimated to be 243 with 95% or more of the 243 in the coastal zone. The 5% cap number would be the limiting factor to the total number of STRs and the coastal zone would be allowed 206 STRs. Implementing a separation requirement that is too restrictive would result in a reduction in STRs below a 5% cap.

5% Cap on the Number of STRs

Section 16-662 and 17-53(D) of the draft ordinances includes a 5% cap per General Plan neighborhood (Attachment 2). The Planning Commission recommended that a section be added to Section 17-53 requiring a further limitation of 5% cap specifically to the R-BF zone and at their September 24th meeting, the HEDC concurred with this recommended. The R-BF zone consists of the properties that lie between the ocean and the first public road (Attachment 6). The zone is made up of 93 existing single-family homes and 14 vacant lots. Of the 93 single-family homes, 16 are currently operating an STR, which is 17% of the existing units or 15% of all lots zoned R-BF. By comparison, Oxnard Shores neighborhood, as defined in the General Plan, currently has 3.2% of the properties operating an STR. These properties, with their proximity to the beach, are the most popular properties for STRs.

At the current concentration of 17% in the R-BF zone, this is approximately one STR per every five lots. With the proposal for a 5% cap, there could be one STR per every 20 lots. Adoption of the 5% cap specifically to the R-BF zone

would reduce the total number of STRs allowed in the zone to 5 STRs - which is a 69% reduction of existing STRs in the zone.

STRs in the Colony at Mandalay Beach

The application of the STR ordinance to the Colony was discussed by both the Planning Commission and the HEDC. There are 440 residential units in the Colony. If the Colony is removed from the Oxnard Shores neighborhood, the existing percentage of STRs would be 4% within the Oxnard Shores neighborhood.

A representative from the Colony spoke at the HEDC meeting and requested STRs be removed from consideration within the Oxnard Shores. The spokesperson indicated the Oxnard Shores community felt the City should not allow STRs in the Colony based on the 1989 Settlement Agreement reached when the Colony was approved as part of a Planned Development. The Chief Assistant City Attorney advised the Planning Commission that the Settlement Agreement was related to the subdivision of the area and did not address STRs. The Chief Assistant City Attorney also advised the Planning Commission that a recent legal ruling (*Greenfield v. Mandalay Shores Community Association* (2018) 21 Cal.App.5th 896) determined that private CC&Rs cannot be used to prohibit STRs and only the City and the Coastal Commission have the ability to regulate STRs.

The Planning Commission did not recommend prohibiting STRs in the Colony; however, the HEDC at their September 24th meeting did recommend a prohibition.

The City Council has the ability, if desired, to exclude STRs from being allowed at The Colony based upon factors unique to this development. As part of a larger planned development next to the beach, visitor-serving beach access was included by providing land for a hotel and public parks. In recognition of the adjoining hotel use, The Colony's covenants, conditions, and restrictions include language that specifically prohibits the rental of the units for transient or hotel purposes for less than 30 days. The Colony itself consists of 440 units with gated access and private streets. The units are all attached with some townhome-style units, 4 unit stacked buildings, and 8 unit stacked buildings. All the unit types share common walls; however, in many case, the units also share common floors and ceilings. The units were built between 1985 and 1987 when noise attenuation standards in the building code were not as stringent as in buildings constructed today. This combination of circumstances creates a unique situation that gives the City Council the ability to exclude units within The Colony from being converted to STRs.

Maximum Number of Rental Days

Nuisance response plans and operational standards are the best practices to protect neighborhood character and address negative behaviors associated with STRs, but some cities establish a maximum rental period as an extra step to protect neighborhood character. Goleta established a 183-day limit and Pismo Beach established a 182-day limit. Staff did not, on July 9th, recommend to the HEDC a maximum number of rentals per calendar year.

The HEDC discussed the issue at their July 9th meeting but did not reach consensus on whether the 180-day limit should be included. Two Committee members suggested the 180-day limit be included in the ordinance while one did not feel a limit was necessary. Although the HEDC did not agree on a 180-day limit (vs. no limit), all three Committee members agreed that the effect any proposed limit has on the STR market should be reviewed after a determined period of time. Staff recommended the limit be reviewed in 18 to 24 months to provide enough data points to analyze the effects of a 180-day limit.

Consistent with direction given by the HEDC on July 9th, staff drafted the ordinances with a maximum of 180 rental days per calendar year. The Planning Commission recommended that the 180 days be reduced to 100 days per year. The Planning Commission discussed the issue and, based on a recent Coastal Commission approval of a 100-day limit for Del Mar and public comment, recommended that the City's proposed 180-day limit be reduced to a 100-day limit.

At their September 24th meeting, the HEDC did not reach consensus on this issue with one member recommending 100

days, while one member suggested their may not be agreement on this but didn't suggest a specific alternative number of days, and a third member was absent.

Staff attended a Coastal Commission STR workshop on July 12, 2019. At the July 12th workshop, the Coastal Commission stated its concern that cities with STR ordinances limiting the number of days a STR can be rented are not providing adequate visitor serving accommodations. Coastal Commission staff indicated that any Local Coastal Plan update must provide data to show that adequate visitor serving accommodations such as hotels, campgrounds, and STRs are available.

Staff has modified the ordinance to reflect the 100-day limit. This change may result in further delay in implementing the ordinance because the Coastal Commission may make recommended modifications that would increase this 100-day limit and the ordinance would need to return to the City Council for a decision to accept or refute the Coastal Commission's recommendations. The Local Coastal Plan amendment (Coastal STR Ordinance) has to be approved by the Coastal Commission before it could go into effect.

The following is a summary of the remaining operational, penalty and fee provisions of the STR regulations before the City Council for adoption.

Operational Standards

- Sets overnight occupancy limits at two persons per bedroom plus two others, up to a maximum of 10 persons in vacation rentals and 5 persons in homestays.
- Establishes a maximum number of persons allowed on the property at any time. Cannot exceed the maximum overnight occupancy plus 6 additional persons.
- Establishes quiet hours from 10:00 pm. to 7:00 a.m. No outdoor amplified music/sound will be allowed during quiet hours.
- No one other than the renters are allowed on site during quiet hours.
- Requires the submittal of a nuisance response plan. Nuisance response plan must include name, address and telephone number of the person or persons who will be available to promptly respond to a nuisance complaint. The property owner must correct the problem within thirty minutes, or within fifteen minutes during the quiet hours between 10:00 p.m. and 7:00 a.m. after the complaint is first received.
- The primary occupant must be 21 years or older.
- Establishes on-site parking requirements: 1.) 1 space for vacation rentals in studio or one bedroom, 2.) 2 spaces for vacation rentals/homeshares with 2 to 4 bedrooms, and 3.) 3 spaces for vacation rentals/homeshares with 5 bedrooms.
- Permitted garages and driveway on the property must be unobstructed and made available for renter parking.
- Prohibits on-site events.
- Requires the provision of adequate waste collection facilities and requires waste collection schedule and information about recycling to be included in rental agreement and posted inside rental unit.

Enforcement and Penalties

- Specifies property management and complaint response requirements.
- Reiterates California Penal Code Section 148.5 regarding filing false reports.
- Three or more verified and valid complaints of any violation within a 12-month period are grounds for permit revocation.

Enforcement actions are intended to quickly remedy situations that are causing nuisance issues for the neighborhood in which the STR is permitted. These best practices include high fines, prosecution as a misdemeanor or both. The fines are cumulative for each violation and for each day the violation continues. They also include very little room for repeated offenses before permits are suspended or revoked. The proposed ordinance incorporates these best practices.

Enforcement of the ordinance is proposed to begin with a contract compliance company, the cost of which will be incorporated into the permit fees. There are a number of compliance companies that are able to monitor non-compliance, violations and complaints for a flat, contracted amount regardless of the number of enforcement calls. These companies offer 24-hour hotlines, have dedicated staff who scan the internet for listing and who begin to build enforcement cases where it is deemed necessary. These enforcement cases are then handed over to code compliance or the City Attorney for citations and enforcement. Additionally, the ordinance requires the STR owner to pay for any code enforcement costs. A Request for Proposal was released on October 23, 2019 and responses are due on November 22, 2019. Staff anticipates bringing this contract to City Council in January 2020. As the City further limits the number of STRs to be allowed, it may be more difficult to raise the permit revenue to cover these enforcement costs.

Violations include any deviation from the proposed ordinances. Each violation is considered a separate offense and each day that a violation continues is also a separate offense. Currently, violations can be prosecuted as a misdemeanor subject to a fine of $1,000 per violation or six months in jail or both. Based on direction from the HEDC Committee, the proposed ordinance now establishes progressive fines of $1,000 for first violation, $2,000 for second violation and $3,000 for third violation. A $5,000 fine will be established for property owners operating an STR without a City permit. Additionally, the STR owner must pay the City for any monies unlawfully obtained, the cost of abating the violation, the cost of investigation, and attorney fees.

Permits and Fees

- Temporary and annual STR permit fees are yet to be determined. STR permits are intended to be "full cost recovery" permits. It is estimated that STR permits would require up to 10 hours of staff time per permit to process (up to 4 hours of Planning staff time, 1 hour of Planning administrative staff time, 3 hours of code enforcement staff time, and up to 2 hours of Police staff time). The required inspections may need to be conducted by a contract inspection company. Additionally, the annual compliance company contract costs would also be added to the permit costs.
- Allows vacation rentals and homeshares with a STR Permit, which must be obtained annually.
- STRs must maintain a valid City business license and timely pay annual business taxes.
- STR permits are to be conditioned to obtain and maintain a City Transient Occupancy Tax (TOT) certificate and make timely City TOT payments.
- Requires a notice of permit issuance to be sent to all property owners and occupants within 300 feet of a registered STR. Appeals allowed only for denials, suspensions and permit revocation.
- Establishes a hearing officer appeal process for denials, suspensions and permit revocation.

Health and Safety

- Requires a pre-permitting inspection to ensure the unit meets health, safety, and parking standards.
- Allows inspection and monitoring to ensure continued operation of the homeshare or vacation rental in compliance with regulations.

In addition to the initial pre-permitting inspection, the Oxnard City Code will require, with reasonable advance notice, that City staff be given access to the dwelling and site during the term of the permit to ensure that the STR continues to operate in compliance with the Oxnard City Code. Ongoing monitoring would include a contracted compliance company that will track the number of complaints received or calls for service for each STR property during the term of the permit. This information will then be taken into consideration during the annual renewal process and, if necessary, the revocation process.

Owner Requirements and Limitations

- Establishes a minimum 3-day stay for a rental contract at a vacation rental in the coastal zone.

- Establishes ownership requirements and limitations: 1.) Only property owners can obtain a STR permit, 2.) STR permits expire upon a change of ownership, and 3.) Only one STR within the City per owner.
- Vacation rentals must have one or two designated property managers, one of whom must be available at all times and within 25 miles of the property. A property owner can serve as one of the property managers.
- Each rental agreement shall include the following information:

1. Permitted occupancy and guest limits for both day and night,
2. Notification of quiet hours,
3. Notification that no outdoor amplified music or sound is allowed during quiet hours,
4. Notification the property cannot be used for events,
5. Notification of available on-site parking spaces and notification advising renters they must park on-site,
6. Waste collection schedule and tenant's responsibilities regarding waste collection, and
7. Notice that fireworks are illegal in the City of Oxnard.

- Posting of sign inside the unit with the following information: 1.) Name and contact information for designated property manager and telephone number at which a person can be reached at all times, 2.) Waste collection schedule and information about recycling, and 3.) Notification that the property owner, renter and occupants are subject to criminal citation and fines, civil penalties and/or permit revocation for violations of occupancy limits, noise standards and other operational standards.

A recent code enforcement symposium on STRs indicated that cities that have established regulations requiring STRs to post a sign with contact information outside the property have observed an increase in property crimes against those properties. The signs serve as indicators to a criminal element that the property does not have a permanent resident and would be considered an easier target. Therefore, staff has removed a previously proposed regulation to require the posting of a sign on the exterior of an STR building. The nuisance response plan and required notification will be sufficient to give the neighbors recourse to resolving any issues that may arise.

- Identifies ineligible dwellings (e.g. affordable, caretaker, and farmworker units, accessory dwelling units, mobile homes located within a mobile home park, tents, recreational vehicles, boats, buildings without a valid building permit, and other specific areas made exempt by the ordinance).

Existing STRs-Draft Processing Guidelines

Staff has outlined STR Processing Guidelines for processing STR applications (See Attachment 9). Any property owner wishing to operate an STR will have to apply for an STR permit and, provided they meet all the regulations, they would be permitted subject to the cap established by ordinances.

Initial California Coastal Commission Feedback

On June 12, 2019, staff sent the draft coastal ordinance to the Coastal Commission staff for review and comment. Staff also attended the Coastal Commission's STR workshop on July 12, 2019. The Coastal Commission has been clear that the City will need to provide data to support the proposed percentage cap and the 100-day limit. However, in other jurisdictions Coastal Commission staff supported a 180-day limit on STRs and as noted previously a 100-day limit in Del Mar. At the July 12th workshop, the Coastal Commission stated that there is concern that STR ordinances are not providing adequate, quality, visitor serving accommodations. Any Local Coastal Plan update must provide data to show that adequate, quality, visitor serving accommodations are available. The accommodations may include quality hotels, camp grounds, and STRs.

Homesharing Only (Santa Monica Model)

Opponents of STRs in Oxnard have pointed to two Ninth Circuit Court of Appeal cases decided in 2019 as the legal basis for banning STRs, despite the direction from the Coastal Commission indicating that STRs should be allowed within the

Coastal Zone. Both cases involved challenges to Santa Monica's regulations banning STRs in specific zones.

As background, in 2015, Santa Monica adopted an ordinance prohibiting STRs in residential zones, while still authorizing homestays in the residential zones. In 2017, Santa Monica amended their regulations to prohibit companies from providing and collecting a fee for booking services for unlicensed STRs.

Homeaway.com and Airbnb challenged the ordinance on a number of grounds, but did not include the Coastal Commission as a party to the litigation. After the district court dismissed the lawsuit, the Ninth Circuit affirmed the district court's dismissal of the case on March 13, 2019, indicating that Homeaway.com and Airbnb had failed to state a claim under the federal Communications Decency Act or the federal First Amendment. (*HomeAway.com v. City of Santa Monica*, 918 F.3d 676 (9th Cir. 2019).) In its decision, the three-judge panel specifically did not address whether Santa Monica's STR regulations violated the California Coastal Act or other provisions of state law.

On October 3, 2019, the same three-judge panel of the Ninth Circuit dismissed another lawsuit challenging Santa Monica's STR prohibition. (*Rosenblatt v. City of Santa Monica*, 2019 U.S. App. LEXIS 29689.) In this case, the court ruled that the STR ban did not discriminate against interstate commerce (an alleged violation of the federal dormant Commerce Clause). Once again, the Coastal Commission was not a party to the litigation and the decision did not address whether Santa Monica's STR regulations violated the California Coastal Act or other provisions of state law.

While these two Ninth Circuit cases indicate that an STR ban such as that adopted by Santa Monica does not violate the federal First Amendment, dormant Commerce Clause or Communications Decency Act, the two cases do not provide any legal authority under state law or state regulations for a California coastal city to ban STRs.

Right now, there is only one recent published California decision regarding STRs -- *Greenfield v. Mandalay Shores Community Association* (2018) 21 Cal. App. 5th 896. That case stated: "The decision to ban or regulate STRs must be made by the City and Coastal Commission, not a homeowners association." (Id. at 901-902.)

Public Communications Received Since the HEDC's Meeting of September 24, 2019

The HEDC last reviewed the STR ordinances on September 24, 2019. Since that point in time, and before the publication of this staff report, staff has received correspondence from members of the public (Attachment 8). Staff will organize and transmit any additional correspondence received after the publication of this report to the City Council via the City Clerk's Office. These correspondences would also be available to members of the public.

ENVIRONMENTAL IMPACT

In accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), Planning staff have determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations (Attachment 7).

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Objective 1e. Develop a rental inspection program.

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

This agenda item supports the Economic Development Strategy. The purpose of the Economic Development Strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Objective 1a. Focus available resources on a comprehensive effort to promote economic activity in Oxnard, including a marketing program that communicates the City's available resources and assets.

Goal 2. Enhance business development throughout the City.

Objective 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates employment opportunities, and generates public revenue.

Objective 2c. Capitalize on historic, cultural and natural resources.

Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

FINANCIAL IMPACT

The City will not receive revenues from newly permitted STRs within the Coastal Zone until the Coastal Commission approves the new STR regulations within the Coastal Zone (Oxnard City Code Section 17-53) pursuant a Coastal Development Permit. The proposed STR regulations outside of the Coastal Zone (adding Article XI to Chapter 16 of the Oxnard City Code) would become effective 30 days after the City Council adopts the ordinance.

Once the recommended STR ordinances received final approval, the ordinances would raise revenue for the General Fund in four different ways:

1. Short-term rental permit (annual): Staff is currently completing a cost analysis to determine the fee amount required to fully recover the cost of administering the STR program. Since the STR permit fee would be limited to cost recovery, this revenue source would have no net impact on the General Fund. It should be noted that as the City implements provisions to limit STRs, it will be more challenging to ensure sufficient funding from fees will be in place to ensure adequate enforcement of these regulations. Staff will return to Council with a fee structure that reflects the final approved regulations.

2. Progressive fines for misdemeanor violations: Ideally, the City will not need to assess any fines because all STR owners will comply with the ordinance. To the extent they do not, however, the progressive fines could generate noticeable new revenue for the General Fund. For example, with a cap of 206 STRs in the Coastal Zone; and if only 5% of those STRs incur two fines per year, then annually the General Fund revenue would increase by $30,900 (.05 * 206 * ($1,000 + $2,000)). There will, however, be costs associated with these enforcement actions.

3. Business tax revenue: With the cap in the Coastal Zone of 206 STRs and a business license tax of approximately $300.00 per year, the General Fund would receive $61,800 annually for STRs in the Coastal Zone if 206 STRs were permitted within the Coastal Zone. The City would also receive a business license tax for STRs located outside of the Coastal Zone.

4. Transient Occupancy Tax revenue: There are many variables in estimating new TOT revenue to be paid by STRs. The following example is not a projection, but merely an illustration of how to estimate revenue under any given set of assumptions. Assuming 206 STRs in the Coastal Zone, 100 days per year rental, an average rental price of $350.00 per night, the current TOT tax rate of 10% then the General Fund revenue from STRs in the Coastal Zone would be:

$721,000.00. (206 STR's * 100 days rented * $350/day * 10% T.O.T. rate = $721,000). The amount of revenue generated will fluctuate significantly per year based on the variables including (but not limited to) the number of STRs that are actually permitted within the Coastal Zone and within other areas of the City.

The FY 2019-20 Adopted Budget does not assume any General Fund revenue from these sources. If approved, these new revenues will be added to the next General Fund forecast.

COMMITTEE OUTCOME

This item is a public hearing and was heard by the Planning Commission and presented to the Housing and Economic Development Committee (HEDC). The recommendations of both the Planning Commission and HEDC are fully elaborated in this report.

Prepared by: Paul McClaren, Associate Planner

ATTACHMENTS

1. CH 7 - Fines Ordinance 10-1-19
2. CH 16 - Short Term Rental Ordinance 10-1-19
3. CH 17 - Short Term Rental Ordinance - Coastal 10-1-19
4. Spatial Analysis of the Coastal Zone
5. General Plan Neighborhood map
6. R-BF Zone Map
7. Notice of Exemption
8. Correspondence
9. STR Processing Guidelines
10. STR Ordinance PPT CC 11.05.19

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE OXNARD CITY CODE REGARDING SHORT-TERM RENTAL UNITS BY ADDING CHAPTER 16, ARTICLE XI AND AMENDING CHAPTER 16, ARTICLE III, DIVISION 2 BY ADDING SUBSECTION (19) TO SECTION 16-21 (B) TO THE RESIDENTIAL SINGLE-FAMILY ZONE, AND AMENDING CHAPTER 16, ARTICLE III, DIVISION 10, SECTION 16-148, TABLE 16-148 OF THE DOWNTOWN CODE, ADDING SHORT-TERM RENTALS AS AN ALLOWED, BY RIGHT RESIDENTIAL USE IN THE DT-E, DT-G AND DT-C ZONES.

WHEREAS, the City of Oxnard intends to adopt regulations on Homestays and Short-Term Rental Units ("STRs"); and

WHEREAS, on March 2016, the City conducted an online community survey that contained a series of questions designed to receive public input on STRs; and

WHEREAS, on August 16, 2016, staff held a duly noticed public Community Workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions; and

WHEREAS, on November 3, 2016, the Planning Commission of the City of Oxnard (the "Planning Commission") held a duly noticed study session to receive input on specific STR regulations; and

WHEREAS, on June 1, 2017, the Planning Commission conducted a duly noticed public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting, and the STR processing guidelines; and

WHEREAS, on February 26, 2019, the City Council's Housing and Economic Development Committee (HEDC) held a duly noticed meeting to discuss policy questions and provide comments and the STR ordinances; and

WHEREAS, on July 9, 2019, the HEDC held a duly noticed meeting to discuss the draft ordinance with a focus on proposed changes to the ordinance; and

WHEREAS, on March 25, 2019, City Council held a duly noticed special meeting and received public input and provided direction to staff regarding the STR ordinances; and

WHEREAS, on August 1, 2019, the Planning Commission held a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-04 (hereafter, the "Zone Text Amendment") regarding the adoption of specific rules and regulations for short term rentals within the Oxnard City Code; and

WHEREAS, after considering all the evidence in the record, including (but not limited to) the staff report (including the attachments), written submittals and public testimony, the

Planning Commission adopted a resolution recommending that the City Council of the City of Oxnard (the "City Council") adopt the Zone Text Amendment; and

WHEREAS, on September 24, 2019, the HEDC held a duly noticed meeting to receive a summary report on the Planning Commission recommendations and provided input on the recommendations; and

WHEREAS, on November 5, 2019, the City Council held a duly noticed public hearing to consider the Zone Text Amendment; and

WHEREAS, at the public hearing, the City Council considered all the evidence in the record, including (but not limited to) the Planning Commission Resolution, the staff report (including the attachments), written submittals and public testimony before making a final decision on November 5, 2019 regarding the regulation of short-term rentals; and

WHEREAS, in accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), the City Council has determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations; and

WHEREAS, the City Council authorizes the granting of a temporary STR permit for homeowners that were operating an STR in Oxnard prior to March 25, 2019. The permit must be applied for within 60 days of the effective date of this ordinance, is good for one year and shall not be automatically renewed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. In view of all the evidence in the record and based on the foregoing findings, the City Council hereby approves the Zone Text Amendment.

Section 2. Chapter 16, Article III, Division 2, Subsection (B) of Section 16-21 of the Oxnard City Code relating to the R-1, Residential Single Family zone is hereby amended to read as follows:

"(19) Short-term rentals consistent with Article XI."

Section 3. Chapter 16, Article III, Division 10, Section 16-148.1 (A) of the Downtown Code is hereby amended to add Short-term Rentals as a Permitted Use in the Allowed Uses Table 16-148 for the following downtown zones: DT-E, DT-G and DT-C.

Section 4. Article XI is hereby added to Chapter 16 of the Oxnard City Code to read as follows:

"ARTICLE XI –SHORT-TERM RENTAL UNITS

SEC. 16-660. PURPOSE AND INTENT.

The purposes of short-term rental unit regulations are to establish standards and requirements for the temporary rental of dwellings as accessory uses in order to: (1) ensure that the use of dwellings as short-term rental units does not adversely impact long-term housing opportunities in the City of Oxnard; (2) ensure that short-term rental units are compatible with surrounding land uses; and (3) protect the health, safety and welfare of the short-term rental units' renters, occupants, neighboring residents, as well as the general public and environment.

SEC. 16-661. DEFINITIONS.

When used in this Article, the following words shall have the meanings ascribed to them as set forth herein.

Homeshare – A dwelling which is the primary residence of an owner who possesses at least a twenty percent ownership interest in the subject parcel, with any portion of the dwelling rented for a period less than thirty consecutive days when said owner is physically present in the same dwelling, with no meals or food provided to the renter or renters. A homeshare is not considered a home occupation. Use of a dwelling for occasional home exchange is not considered a homeshare.

Owner – A person with a full or partial fee title ownership interest in the subject property. For a property held in a trust, each trustee (but no trust beneficiary) is considered an owner.

Primary Residence – A dwelling which is the owner's main living location as evidenced by the owner's address-of-record for official documents such as the property's title, income tax returns, voter registration, or a current property tax bill.

Rent – The terms rent, rented and rental mean allowing use of a dwelling or property, or any portion thereof, in exchange for consideration in any form.

Short-term Rental - The rental of a residential unit for a period of less than thirty (30) consecutive calendar days. Short-term rentals include both homeshares and vacation rentals.

Vacation Rental – A dwelling, any portion of which is rented for a period less than thirty consecutive days when the owner is not physically present, with no meals or food provided to the renter or renters. A vacation rental is not considered a home occupation under this Article. Use of a dwelling for occasional home exchange is not considered a vacation rental.

SEC. 16-662. VACATION RENTAL PERMIT CAP, SEPARATION REQUIREMENT AND MAXIMUM RENTAL PERIOD.

(A) The number of vacation rental permits shall be limited by a 5% cap per General Plan neighborhood as established in the City of Oxnard Neighborhood Map adopted as Figure 3-4 in the 2030 General Plan or its successor document.

(B) No Vacation Rental shall be issued a permit when a Vacation Rental permit has already been issued on another property within 200 feet of the proposed Vacation Rental. The 200 feet is to be measured horizontally from the lines of property ownership as established by the legal description for the property on record with the County of Ventura. Notwithstanding any language in this Subsection B to the contrary, the 200-foot separation requirement shall not apply to a dwelling unit within a development:

1. That is subject to the Vacation Ownership and Time-share Act of 2004 (Business and Professions Code Section 11210 et seq.); and

2. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

(C) Vacation rentals shall be limited to a maximum of 100-day annual cap per calendar year. Vacation rentals which are only used for a partial day (i.e. arrival and departure days) shall be rounded up and counted as a full day. Notwithstanding any language in this Subsection C to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development:

1. That is subject to the Vacation Ownership and Time-share Act of 2004; and

2. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

SEC. 16-663. PERMIT REQUIRED.

(A) Except as expressly authorized by this Article, no dwelling, property or any portion thereof shall be rented for a term of less than thirty consecutive days. Renting for less than thirty days pursuant to a purported longer-term lease or by other means intended to evade compliance with this Article is prohibited.

(B) A valid permit issued by the City pursuant to this Article is required in order for any person that seeks or receives any rent, payment, fee, commission or compensation in any form, to rent, offer for rent, advertise for rent, or facilitate the rental of a homeshare or vacation rental. For purposes of this Article, the owner of a dwelling unit that is subject to the Vacation Ownership and Time-share Act of 2004 must obtain a valid permit issued by the City pursuant to this Article for the rental of the dwelling unit for non-timeshare purposes for a period of less than thirty days.

(C) A short-term rental permit authorizing a vacation rental or homestay shall be issued or renewed by the Community Development Director, or designee if the following minimum findings are met.

(1) The property is compliant with all State and Local codes.
(2) The property complies with the requirements in this Article.
(3) There is no substantial evidence of nuisance behavior from the location.
(4) Issuance of the permit will not exceed the neighborhood cap pursuant to Section 16-662.

(D) The Community Development Director shall have the authority to impose additional standards and/or conditions to short-term rental permits as necessary to achieve the objectives of the Article.

SEC. 16-663.1. LIMITED TERM.

(A) Permits for short-term rentals shall be issued or renewed for a maximum term of one year. All permits shall contain the following provision: "This permit shall expire no later than one year after the date of issuance, and is subject to revocation for violation or noncompliance with the requirements or any other applicable provision of the Oxnard City Code."

(B) Permit holders that remain in good standing and apply for a renewal permit prior to the expiration of their current permit will be granted a renewal permit. If a permit expires, the request for a permit would be treated as a new permit subject to any established waiting list.

SEC. 16-663.2. OWNER REQUIREMENTS AND LIMITATIONS.

(A) Permits may only be issued to the owner(s) of the homeshare or vacation rental property, and shall automatically expire upon sale or transfer of ownership of the property, in whole or in part. All permits shall include the following provision: "This permit shall automatically expire upon sale or transfer of the property, in whole or in part, or as stated in Section 16-663.1 whichever comes first."

(B) A permit may only be issued for a homeshare or vacation rental property if no owner of the subject homeshare or vacation rental property is also the owner of another homeshare or vacation rental property that is currently permitted under this Article. In addition, if a property contains multiple dwelling units (e.g., a duplex, cottages or apartments), only one dwelling unit on the property is eligible for permitting as a homeshare or vacation rental under this Article. An Accessory Dwelling Unit cannot be used as a short-term rental.

SEC. 16-663.4. INELIGIBLE DWELLINGS, STRUCTURES AND SPACES.

No permit for a homeshare or vacation rental shall be issued for any of the following:

(A) A dwelling subject to a City-imposed covenant, condition or agreement restricting its use to a specific purpose including but not limited to an affordable housing unit, farmworker housing, a superintendent or caretaker dwelling.

(B) A dwelling on property fully or partially owned by a corporation, partnership, limited liability company, or other legal entity that is not a natural person, except in the event every shareholder, partner or member of the legal entity is a natural person as established by documentation (which shall be public record) provided by the permit applicant. In the event this exception applies, every such natural person shall be deemed a separate owner of the subject dwelling and property for purposes of this Article.

(C) A dwelling on property owned by six or more owners, unless each owner shares common ancestors.

(D) A dwelling or structure that has not, if legally required, obtained a full building final inspection or been issued a valid certificate of occupancy by the City Building Official

(E) A mobile home located in a mobile home park.

(F) Space in a yard or on a balcony. Camping in a backyard or on a balcony as a form of STR is prohibited.

(G) A vehicle, to include an RV, car or boat. Use of a vehicle as a form of STR is prohibited.

(H) An Accessory Dwelling Unit.

SEC. 16-664. PRE-PERMITTING INSPECTION.

Prior to the initial issuance of a permit under this Article, the City Building Official or designee shall conduct an inspection to determine the number of bedrooms within the unit and ensure the dwelling and site comply with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, and other relevant health and safety standards. If any violation is identified during the inspection, no permit shall be issued under this Article until the violation(s) is abated.

SEC. 16-665. PERMIT APPLICATION, PROCESSING AND FEES.

(A) Applications for the initial issuance and renewal of permits under this Article shall meet the form and content requirements as established by the Community Development Director or designee.

(B) Each application shall include a floor plan showing all rooms with each room labeled as to room type and a site plan depicting the location of all on-site parking and existing structures and describing the use of all existing structures.

(C) Each application shall include a nuisance response plan containing the information required by Sec. 16-666.

(D) Each application shall include a mailing list for notifications pursuant to Sec. 16-668.2 (B) along with fees as set forth in the Planning Division fee schedule.

(E) Each application shall include an affidavit in a form provided by the Community Development Director or designee, signed by each owner of the subject property, agreeing to comply with the operational standards of Sec. 16-667 and the property management requirements of Sec. 16-668 should the permit be issued. The affidavit form shall also include the following statement: "The City considers the short-term rental of dwellings to be businesses that are operated in residential zones. Short-term rentals are not a by-right use. Instead, they are only allowed if operated in strict compliance with the rules and requirements of Chapter 16, Article XI of the Oxnard City Code. Violations are grounds for permit revocation, fines, and/or criminal prosecution."

(F) For a homeshare only, annually provide to the Planning Division proof of a homeowner's exemption from the County Assessor and a fully-executed statement that the property is owner occupied.

(G) An annual permit fee authorized by the fee schedule applicable to the Planning Division may be collected upon the filing of an application to cover the City's costs of administering this Article.

(H) Prior to permit issuance under this Article, the applicant shall: (i) pay all applicable City fees; (ii) provide contact information for the owner of a homeshare, or designate and provide contact information for one or two property managers of a vacation rental, pursuant to Sec.16-668.1 (C); (iii) provide a fully-executed affidavit pursuant to Sec. 16-665 (E); (iv) provide proof of compliance with the applicable business tax and licensing, and transient occupancy tax, requirements pursuant to Sec. 16-668.6; (v) for a homeshare only, proof of homeowner's exemption and statement that property is owner occupied pursuant to Sec. 16-665 (F); (vi) provide proof of insurance pursuant to Sec. 16-668.7; and (vii) provide the fully-executed defense and indemnification agreement pursuant to Sec.16-668.8.

(I) Notwithstanding any other provision of this Article, no public hearing shall be conducted regarding permit applications under this Article. Decisions of the Community Development Director or designee on permit applications to approve a short-term rental permit are final when rendered and are not subject to appeal.

SEC. 16-666. NUISANCE RESPONSE PLAN

Each nuisance response plan accompanying a vacation rental application shall contain the following information and otherwise be in a form required by the Community Development Department.

(A) The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a vacation rental pursuant to the permit;

(B) The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the vacation rental by tenants, their visitors and/or their guests. For the purposes of this Article, a return telephone call to a complainant shall be deemed "prompt" when:

(1) Between the hours of 7:01 a.m. and 9:59 p.m. the call to contact the renter to correct the problem is made within thirty minutes of receiving the initial complaint;

(2) Between 10:00 p.m. and 7:00 a.m., the quiet hours, the call to contact the renter to correct the problem is made within fifteen minutes of receiving the initial complaint.

(C) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and

(D) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

(E) The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

(F) The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this Article "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.

SEC. 16-667. OPERATIONAL STANDARDS

The following minimum operational standards specified shall apply to all homeshares and vacation rentals. All owners, renters, occupants and visitors of homeshares and vacation rentals shall comply with the operational standards. The owner(s) and permittee(s) of homeshares and vacation rentals are ultimately responsible for ensuring compliance with, and are liable for violations of, these operational standards.

SEC 16-667.1. LIMITS ON DURATION OF STAY

Vacation rental units may be rented for no more than 100 days during any calendar year. Notwithstanding any language in this Section to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development:

1. That is subject to the Vacation Ownership and Time-share Act of 2004; and

2. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

SEC. 16-667.2. OCCUPANCY LIMITS.

(A) Vacation rental overnight occupancy shall be limited to a maximum of two persons per bedroom occupying up to five bedrooms, plus two additional persons, up to a maximum of ten persons.

(B) Homeshares shall have a maximum of two bedrooms available for rental. Overnight occupancy shall be limited to a maximum of five rental guests.

(C) Inclusive of the owner(s) in the case of homeshares, the maximum number of total persons allowed on the property at any time shall not exceed the maximum overnight occupancy plus six additional persons. No person who is not staying overnight at the homeshare or vacation rental shall be on the property during the quiet hours stated in Sec.16-667.4 (B).

(D) Homeshares and vacation rentals shall not be rented to more than one group at a time; no more than one rental agreement shall be effective for any given date.

(E) The primary occupant of a vacation rental shall be an adult 21 years of age or older. The primary occupant shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Article and/or this code.

SEC. 16-667.3. PARKING REQUIREMENTS.

(A) Parking shall be provided on the property as follows:

(1) a minimum of one parking space for vacation rentals in a studio or one bedroom;
(2) a minimum of two parking spaces for homeshares and vacation rentals with two to four bedrooms; and
(3) a minimum of three parking spaces for homeshares and vacation rentals with five or more bedrooms.

(B) Permitted garages and driveways on the property shall be unobstructed and made available for renter parking.

SEC. 16-667.4. NOISE.

(A) No use or activity associated with a homeshare or vacation rental shall at any time create unreasonable noise or disturbance as provided in Chapter 7, Article XI – Sound Regulations of the Oxnard City Code.

(B) Quiet hours shall be observed from 10:00 p.m. to 7:00 a.m.

(C) Pursuant to OCC Section 7-147.1 the sale, offer to sell, use, or possession of fireworks is prohibited in the City of Oxnard and use by a tenant or guest of an STR is also a violation of this Article.

SEC. 16-667.5. EVENTS AND ACTIVITIES.

No homeshare or vacation rental property shall be rented or used for any event or activity attended by more persons than are allowed on the property pursuant to Sec.16-666.2, that violates any noise standard of Sec.16-666.4, or that violates any other standard or requirement of this Article or any other local, state or federal law.

SEC. 16-667.6. REFUSE.

Adequate waste collection facilities and services shall be provided for a homeshare or vacation rental at all times. Waste bins and refuse shall not be left within public view, except in proper containers for the purpose of collection on the scheduled collection day(s). The waste collection schedule and information about recycling and green waste separation and disposal shall be included in the rental agreement and posted conspicuously inside the rental unit.

SEC. 16-668. PROPERTY MANAGEMENT REQUIREMENTS.

The minimum property management requirements apply to all homeshares and vacation rentals.

SEC. 16-668.1. OWNER/PROPERTY MANAGER REQUIREMENTS.

(A) At all times a homeshare is rented out, a homeshare owner shall be onsite between the hours of 10:00 p.m. and 7:00 a.m., and within twenty-five miles of the property at all other times, to ensure compliance with the standards and requirements of this Article.

(B) At all times a vacation rental is rented out, the vacation rental shall have one or two designated property managers, one of whom shall be available at all times and within twenty-five miles of the property, to ensure compliance with the standards and requirements of this Article. An owner may serve as one of the property managers.

(C) Each application under this Article shall include the name, address, and telephone number(s) at which the property manager(s) can be reached at all times, along with the signature of each property manager. Any requested change to a designated property manager shall be made through a formal written request to the Community Development Director or designee, and shall include the signature of the proposed property manager and the desired effective date of the change. No change to a vacation rental's designated property manager shall take effect unless and until approved in writing by the Community Development Director or designee.

SEC. 16-668.2. PERMIT NOTIFICATION.

(A) The Planning Division shall provide a mailed notice of permit issuance, and of each permit renewal, to the owner of the subject property and the owners of all real property situated within a radius of 300 feet of the exterior boundaries of the Assessor's Parcel(s) which is the subject of the application.

(B) At a minimum, the notice of permit issuance shall include: (i) directions to view a copy of the nuisance response plan; and (ii) contact information for the Code Compliance Division.

SEC. 16-668.3. INFORMATION IN RENTAL AGREEMENTS

Each rental agreement for a vacation rental or homeshare shall prominently display the following information:

(A) The permitted occupancy and guest limits for both day and night;

(B) Notification that quiet hours shall be observed between 10:00 p.m. and 7:00 a.m.;

(C) Notification that no outdoor amplified music or sound is allowed during quiet hours and a copy of Chapter 7, Article XI – Sound Regulations of the Oxnard City Code as may be amended from time to time;

(D) Notification that the property cannot be used for events that exceed the applicable occupancy or guest limits, or that violate the quiet hours, noise standards or any other standard or requirement of this Article;

(E) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed;

(F) The waste collection schedule and the tenant’s responsibilities regarding waste collection.

(G) Notification that the sale, possession or use of fireworks in the City of Oxnard is prohibited.

SEC. 16-668.4 INFORMATION IN ADVERTISEMENTS AND LISTINGS

(A) Each advertisement and listing for a vacation rental or homeshare shall prominently display the following information:

(1) The City-issued land use permit number authorizing the homeshare or vacation rental under this Article;

(2) The current City issued Business License Tax Certificate identification number, if required for the operation.

(3) All advertisements for homeshares shall state that the unit is an owner-occupied dwelling, and the owner will be present in the home.

(4) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed.

(B) No advertisements or notices regarding the availability of a dwelling for homeshare or vacation rental use shall be posted on the property.

SEC. 16-668.5. POSTING INSIDE OF DWELLINGS.

The following information, as well as all information required by Sec.16-667.4, shall be posted in a conspicuous location inside the dwelling within six feet of the main entrance of the homeshare or vacation rental:

(A) The name and contact information for the designated property manager of a vacation rental or owner of a homeshare, and the telephone number(s) at which the person can be reached at all times;

(B) The waste collection schedule and information about recycling and green waste separation and disposal;

(C) Notification that the property owner, renter, and occupants are subject to criminal citation and fines, civil penalties and/or permit revocation for violations of the unit's occupancy limits, noise standards and other operational standards.

SEC. 16-668.6. BUSINESS LICENSE; BUSINESS TAXES; TRANSIENT OCCUPANCY TAX.

The owner of a vacation rental or homeshare shall acquire and maintain a valid City business license, timely pay annual business taxes evidenced by a business tax certificate, and obtain and maintain a valid City transient occupancy tax registration certificate and timely pay all required City transient occupancy taxes.

SEC. 16-668.7. INSURANCE.

The owner shall maintain an insurance policy that includes coverage for commercial/business general liability with a minimum limit of $1,000,000 per occurrence for claims of personal injury or property damage. Proof of such insurance coverage shall be provided with each permit application under this Article, and shall be made available to the Community Development Director or designee upon request.

SEC. 16-668.8. DEFENSE AND INDEMNIFICATION.

All owners of a homeshare or vacation rental shall be jointly and severally responsible to defend and indemnify the City and all of its officials, employees and agents from and against all third-party claims, causes of actions, fines, damages and liabilities of whatever nature arising from or related to the processing and issuance of a permit under this Article and/or from the operation of the homeshare or vacation rental. Upon submittal of a permit application under this Article, all owners of the homeshare or vacation rental shall execute a written agreement on a form provided by the Community Development Director or designee implementing this defense and indemnification requirement.

SEC. 16-668.9. RECORD-KEEPING.

The owner of a homeshare or vacation rental shall keep and preserve all records as may be necessary to demonstrate compliance with the standards and requirements of this Article. These records shall include but are not limited to all rental agreements entered into, advertisements and online listings. The records shall be maintained during the term of the permit issued under this Article and subsequent renewal up to three years, and shall be made available in electronic format for the City's review upon request of the Community Development Director or designee.

SEC. 16-669. INSPECTION AND MONITORING.

SEC. 16-669.1. INSPECTIONS.

In addition to the pre-permitting inspection of a homeshare or vacation rental pursuant to Sec.16-664, upon reasonable advanced notice, City staff shall be given access to the dwelling and site to conduct an inspection during the term of the permit to ensure continued operation of the homeshare or vacation rental in compliance with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, safety, and other relevant issues.

SEC. 16-669.2. INSPECTION, MONITORING AND CODE ENFORCEMENT COSTS.

City monitoring shall be required for each homeshare and vacation rental operation issued a permit. The permittee shall be responsible for all inspection and monitoring costs associated with the operation. Monitoring may be conducted by a third party compliance company hired by the City. The permittee shall also be responsible for any and all code enforcement costs, calculated at a full cost recovery rate, related to their property.

SEC. 16-670. PERMIT FEES

The Community Development Department shall assess fees for a short-term rental permit, as set by the City Council. Fees and deposits set forth in this Article may be adjusted each year by the City Council, reflecting the costs of administering the short-term rental permit, and enforcing the requirements of this Article.

SEC. 16-671. COMPLAINTS AND VIOLATIONS.

SEC. 16-671.1. COMPLAINTS.

(A) Complaints regarding the condition, operation or conduct of the renters, occupants or visitors of a homeshare or vacation rental shall be directed to the vacation rental property manager or homeshare owner for investigation and resolution. The property manager or owner shall be available by phone at all times the dwelling is rented out as a homeshare or vacation rental.

(B) Upon receipt of a complaint that any renter, occupant or visitor of a homeshare or vacation rental has created unreasonable noise or disturbance and/or potentially violated any other operational standard of this Article the property manager or owner shall take all necessary actions to promptly resolve the issue, including by initially contacting the renter to correct the problem within thirty minutes, or within fifteen minutes during the quiet hours between 10:00 p.m. and 7:00 a.m., after the complaint is first received.

(C) Within twenty-four hours after first receiving a complaint pursuant to subsection (B) above, the property manager or owner shall complete the online reporting form provided by the Community Development Director or designee to: (1) report and describe the complaint, including the time the complaint was first received; (2) describe all actions taken to resolve the issue, including the time each action was taken; and (3) describe the resolution or current status.

(D) A property manager's or owner's failure to promptly resolve a complaint pursuant to subsection (B) above which the Planning Division deems to be valid, or to timely and fully report the complaint to the Community Development Director or designee on the online reporting form, shall each constitute a separate violation of this Article.

(E) Individuals who file false reports of nuisance activities or other violations of this ordinance shall be subject to fine and prosecution pursuant to California Penal Code Section 148.5 and the complainant will be responsible for the costs associated with the service call by the Police Department or Code Enforcement.

SEC. 16-671.2. VIOLATIONS.

Each of the following acts or omissions related to the operation or use of a homeshare or vacation rental is unlawful and constitutes a violation of this Article. Owners are jointly and severally responsible and liable, along with any other responsible person, for each violation committed with respect to their homeshare or vacation rental. Each day a violation occurs constitutes a separate, additional violation:

(A) Engaging in an act in violation of the permitting requirement of Sec. 16-663(A);

(B) Failure to comply with an operational standard of Sec. 16-667;

(C) Failure to comply with a property management requirement of Sec.16-668;

(D) Failure to comply with the complaint investigation, resolution and/or reporting requirements of Sec. 16-669.1; and

(E) Failure to timely remit to the City any cost or fee pursuant to this Article

SEC. 16-672. REVOCATION OR SUSPENSION OF PERMIT.

(A) The Community Development Director may revoke, or suspend a vacation rental or homeshare permit for one or more of the following reasons:

(1) A property transfer triggering property tax reassessment pursuant to the California Revenue and Taxation Code Section 60 et seq., as determined by the Ventura County Assessor such that the vacation rental or homeshare permit associated with the property shall expire and shall also become nonrenewable at the time of the property transfer.

(2) The permittee has made a false, misleading or fraudulent statement of material fact in the application for the vacation rental or homeshare permit, in the information required to be submitted to the city, or in response to inquiries by the city.

(3) The permittee engaged in any of the following conduct related to this Article that:
   (a) Resulted in a citation or conviction against the permittee;
   (b) Violated local, state or federal law;
   (c) Constituted a public nuisance;
   (d) Breached any condition, requirement, or restriction of the vacation rental or homeshare permit; or
   (e) Constituted a hazard to public peace, health, or safety.

(4) Failure to pass inspections required under the provisions of Sec. 16-664.

(5) Three or more verified and valid complaints of any violation of the Oxnard City Code, state or federal law, as determined by the Community Development Director, within a twelve-month period, shall be grounds for permit revocation.

(B) A vacation rental or homeshare permit may be revoked, suspended, or additional conditions may be imposed by the Community Development Director by providing written notice to the permittee setting forth the basis of the intended action and giving the permittee an opportunity, within fourteen calendar days, to present responding information to the Community Development Department.

(C) After the fourteen-day period, the Community Development Director shall determine whether to revoke the permit, suspend the permit, or impose additional conditions upon the permit and thereafter, give written notice of its decision to the permittee. The permit shall be deemed to be valid until the written notice of the decision has been issued.

SEC 16-673. VIOLATIONS DECLARED A PUBLIC NUISANCE.

Each and every violation of the provisions of this Article is hereby deemed unlawful and a public nuisance.

SEC 16-674. EACH VIOLATION A SEPARATE OFFENSE.

Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Oxnard. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Oxnard may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the person/s or entity to which the STR permit was issued and by tenants under contract to use the STR. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a STR permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).

SEC. 16-675. CRIMINAL PENALTIES.

Each and every violation of the provisions of this Article may at the discretion of the District Attorney or City Attorney be prosecuted as an infraction or misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) for the first violation, two thousand dollars ($2,000) for the second violation, and three thousand dollars ($3,000) and revocation of the permit for a period of two years after which the property owner would have to reapply for the third violation. Each day a violation is committed or permitted to continue shall constitute a separate offense. The fine for operating an unlicensed and/or unpermitted STR shall be $5,000 per day.

SEC. 16-676. REMEDIES CUMULATIVE AND NOT EXCLUSIVE.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SEC. 16-677. APPEALS.

A property owner may appeal a decision of the Community Development Director to deny, revoke, or suspend a short-term rental permit pursuant to Chapter 1, Article V-Administrative Hearings of the Oxnard City Code."

Section 5. 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 decisions 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 6. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 7. The City Clerk shall certify to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) calendar days of the adoption and shall post a certified copy of this ordinance, include the vote for and against the same, in the office of the City Clerk in accordance with Government Code Section 36933. Ordinance No.___ was first read on _____, 2019, finally adopted on _____,2019, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of ___, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Tim Flynn, Mayor

ATTEST:

By_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

By_____
Stephen M. Fischer, City Attorney

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE OXNARD CITY CODE REGARDING SHORT-TERM RENTAL UNITS BY ADDING CHAPTER 17, ARTICLE IV, SECTION 17-53, AND AMENDING CHAPTER 17, ARTICLE II ADDING SUBSECTION (B) (10) TO SECTION 17-10. R-B-1, SINGLE-FAMILY BEACH, SUB-ZONE; SECTION 17-11. R-W-1, SINGLE-FAMILY WATER-ORIENTED, SUB-ZONE; SECTION 17-12. R-W-2, TOWNHOUSE WATER-ORIENTED, SUB-ZONE; SECTION 17-13. R-2-C, COASTAL MULTIPLE-FAMILY, SUB-ZONE; SECTION 17-14. R-3-C, COASTAL MEDIUM DENSITY MULTIPLE-FAMILY, SUBZONE; ADDING SUBSECTION (B) (3) TO SECTION 17-15. CPC, COASTAL PLANNED COMMUNITY SUB-ZONE; AND ADDING SUBSECTION (B) (9) TO SECTION 17-25. R-BF, BEACHFRONT RESIDENTIAL SUB-ZONE REGARDING SHORT-TERM RENTAL UNITS

WHEREAS, the City of Oxnard intends to adopt regulations on Homestays and Short-Term Rental Units ("STRs"); and

WHEREAS, on March 2016, the City conducted an online community survey that contained a series of questions designed to receive public input on STRs; and

WHEREAS, on August 16, 2016, staff held a duly noticed public Community Workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions; and

WHEREAS, on November 3, 2016, the Planning Commission of the City of Oxnard (the "Planning Commission") held a duly noticed study session to receive input on specific STR regulations; and

WHEREAS, on June 1, 2017, the Planning Commission conducted a duly noticed public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting, and the STR processing guidelines; and

WHEREAS, on February 26, 2019, the City Council's Housing and Economic Development Committee (HEDC) held a duly noticed meeting to discuss policy questions and provide comments; and

WHEREAS, on July 9, 2019, the HEDC held a duly noticed meeting to discuss the draft ordinance with a focus on proposed changes to the ordinance; and

WHEREAS, on March 25, 2019, City Council held a duly noticed special meeting and received public input and provided direction to staff; and

WHEREAS, on August 1, 2019, the Planning Commission held a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-04 (hereafter, the "Zone Text Amendment") regarding the adoption of specific rules and regulations for short term rentals within the Oxnard City Code; and

WHEREAS, after considering all the evidence in the record, including (but not limited to) the staff report (including the attachments), written submittals and public testimony, the Planning Commission recommended that the City Council of the City of Oxnard (the "City Council") adopt the Zone Text Amendment; and

WHEREAS, on September 24, 2019, the HEDC held a duly noticed meeting to receive a summary report on the Planning Commission recommendations and provided input on the recommendations; and

WHEREAS, on November 5, 2019, the City Council held a duly noticed public hearing to consider the Zone Text Amendment; and

WHEREAS, at the public hearing, the City Council considered all the evidence in the record, including (but not limited to) the Planning Commission Recommendation, the staff report (including the attachments), written submittals and public testimony before making a final decision on November 5, 2019 regarding the regulation of short-term rentals; and

WHEREAS, in accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), the City Council has determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations; and

WHEREAS, the City Council authorizes the granting of a temporary STR permit for homeowners that were operating an STR in Oxnard prior to March 25, 2019. The permit must be applied for within 60 days of the effective date of this ordinance, is good for one year and shall not be automatically renewed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. Based upon the foregoing recitals as required per OCC 17-57(C)(8)(c), which are incorporated herein, the City Council finds:

A. The Zone Text Amendment is consistent with the current certified local Coastal Land Use Plan or said Coastal Land Use Plan shall be amended concurrently in order to maintain consistency pursuant to the Coastal Act.

The local Coastal Land Use Plan shall be amended concurrently with the Zone Text Amendment through a Local Coastal Plan Amendment filed with the California Coastal Commission to ensure internal consistency. As such, this Zone Text Amendment will meet this finding.

B. The application for the Zone Text Amendment has been processed in accordance with procedures required by Oxnard City Code Section 17-58.

The proposed Zone Text Amendment has been processed in accordance with the procedures required by Section 17-58 (Hearings and Appeals), which include providing notice given at least 10 days prior to the hearing date in a newspaper of general circulation. Therefore, this Project meets this finding.

C. Cumulative amendments or changes maintain or enhance the coastal resources as identified and protected in the originally certified Coastal Land Use Plan.

The Zone Text Amendment creates regulations to manage activity that is currently being undertaken in the Coastal Zone, i.e. short-term rentals. Consideration was given in the regulations to ensure that the regulations focus on managing issues created by short-term rentals while maintaining access to the Coastal Zone thereby enhancing the certified local Coastal Land Use Plan. Therefore, this Zone Text Amendment meets this finding.

D. The Zone Text Amendment is appropriate in light of an established need for the requested amendment at the time and location anticipated by said amendment.

As a result of the rise in the number of short-term rentals in the Coastal Zone, the residents and City have experienced an increase in issues directly related to the use of residential properties in the Coastal Zone as short-term rentals. The issues include (but are not limited to) noise, trash and parking problems. The proposed Zone Text Amendment addresses these issues and other anticipated issues through the proposed standards and enforcement regulations that address the established need for the amendment. Therefore, this Zone Text Amendment meets this finding.

E. The proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare.

The adoption of Zone Text Amendment is a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by clarifying the implementation procedures of industrial zones throughout the City of Oxnard. As such, this Zone Text Amendment meets this finding.

F. The Zone Text Amendment maintains or enhances the provisions for public access within the Coastal Zone.

Short-term rentals are an existing use that is not currently allowed or regulated within the City's adopted Coastal Zoning regulations (Chapter 17 of the Oxnard City Code). The regulations will make short-term rentals a permitted use in select zones within the Coastal Zone once the required permit is obtained, and the regulations will establish operational requirements to manage the issues that arise as a result of short-term rentals. The Zone Text Amendment allows for an increase in the number of short-term rentals currently available in the Coastal Zone, thereby creating additional, quality overnight accommodations within the Coastal Zone. Therefore, this Zone Text Amendment meets this finding.

G. The Zone Text Amendment is consistent with the goals, policies, and actions of the City of Oxnard 2030 General Plan and will not conflict with the 2030 General Plan.

The zone text amendment supports the 2030 General Plan goals of improving community safety and quality of life, and strengthening neighborhood development. Additionally, the amendment will aid in the creation of a vibrant and economically sustainable commercial and retail sector throughout the City and enhance business development.

H. The Zone Text Amendment reflects the input of residents, stakeholders, and public officials, and implements the General Plan's vision and desire for the community, is adopted in the public's interest, and is consistent with federal and state law.

The zone text amendment has evolved through a process of public engagement with the entire community, review of regulations adopted by other jurisdictions in Southern California and is adopted in the public's interest to address concerns and issues brought to the City by residents. The regulations are based on current law and precedent established in the State of California.

Section 2. In view of all the evidence in the record and based on the foregoing findings, the City Council hereby approves the Zone Text Amendment.

Section 3. Chapter 17, Article II, Subsection (B) of Section 17-10 of the Oxnard City Code relating to the R-B-1, Single-Family Beach, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 4. Chapter 17, Article II, Subsection (B) of Section 17-11 of the Oxnard City Code relating to the, R-W-1, Single-Family Water-Oriented, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 5. Chapter 17, Article II, Subsection (B) of Section 17-12 of the Oxnard City Code relating to the, R-W-2, Townhouse Water-Oriented, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 6. Chapter 17, Article II, Subsection (B) of Section 17-13 of the Oxnard City Code relating to the R-2-C, Coastal Multiple-Family, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 7. Chapter 17, Article II, Subsection (B) of Section 17-14 of the Oxnard City Code relating to the R-3-C, Coastal Medium Density Multiple-Family, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 8. Chapter 17, Article II, Subsection (B) of Section 17-15 of the Oxnard City Code relating to the CPC, Coastal Planned Community Sub-Zone is hereby amended to read as follows:

"(3) Short-term rentals consistent with Section 17-53."

Section 9. Chapter 17, Article II, Subsection (B) of Section 17-25 of the Oxnard City Code relating to the R-BF, Beachfront Residential Sub-Zone is hereby amended to read as follows:

"(9) Short-term rentals consistent with Section 17-53."

Section 10. Section 17-53 is hereby added to Article IV of Chapter 17 of the Oxnard City Code to read as follows:

"**SEC. 17-53 SHORT-TERM RENTAL UNITS**

(A) Purpose and Intent.

The purposes of short-term rental unit regulations are to establish standards and requirements for the temporary rental of dwellings as accessory uses in order to: (1) ensure that the use of dwellings as short-term rental units does not adversely impact long-term housing opportunities in the City of Oxnard; (2) ensure that short-term rental units are compatible with surrounding land uses; and (3) protect the health, safety and welfare

of the short-term rental units' renters, occupants, neighboring residents, as well as the general public and environment.

(B) Definitions.

When used in this Article, the following words shall have the meanings ascribed to them as set forth herein.

Homeshare – A dwelling which is the primary residence of an owner who possesses at least a twenty percent ownership interest in the subject parcel, with any portion of the dwelling rented for a period less than thirty consecutive days when said owner is physically present in the same dwelling, with no meals or food provided to the renter or renters. A homeshare is not considered a home occupation. Use of a dwelling for occasional home exchange is not considered a homeshare.

Owner – A person with a full or partial fee title ownership interest in the subject property. For a property held in a trust, each trustee (but no trust beneficiary) is considered an owner.

Primary Residence – A dwelling which is the owner's main living location as evidenced by the owner's address-of-record for official documents such as the property's title, income tax returns, voter registration, or a current property tax bill.

Rent – The terms rent, rented and rental mean allowing use of a dwelling or property, or any portion thereof, in exchange for consideration in any form.

Short-term Rental - The rental of a residential unit for a period less than thirty (30) consecutive calendar days. Short-term rentals include both homeshares and vacation rentals.

Vacation Rental – A dwelling, any portion of which is rented for a period less than thirty consecutive days when the owner is not physically present, with no meals or food provided to the renter or renters. A vacation rental is not considered a home occupation under this Section. Use of a dwelling for occasional home exchange is not considered a vacation rental.

(C) Vacation Rental Permit Cap.

The number of vacation rental permits shall be limited by a 5% cap per General Plan neighborhood as established in the City of Oxnard Neighborhood Map adopted as Figure 3-4 in the 2030 General Plan or its successor document. The number of vacation rental permits shall also be limited to 5% in the Residential Beach Front (R-BF) zone. The total number of vacation rental permits issued to residential dwellings in the City and the R-BF zone shall not exceed 5% of the total dwelling units in each neighborhood or zone. If no

short-term rental permits are available pursuant to the cap on short-term rentals, the Director or designee shall place interested property owners on a waiting list in the order in which they were received. If a permit becomes available, applications shall be accepted and reviewed in the order they are listed on the waiting list, subject to Subsection (K).

(D) Separation Requirement.

1. No Vacation Rental shall be issued a permit when a Vacation Rental permit has already been issued to another property within 200 feet of the proposed Vacation Rental. The 200 feet is to be measured horizontally from the lines of property ownership as established by the legal description for the property on record with the County of Ventura.

2. Notwithstanding any language in this Subsection D to the contrary, the 200-foot separation requirement shall not apply to a dwelling unit within a development:

   a. That is subject to the Vacation Ownership and Time-share Act of 2004 (Business and Professions Code Section 11210 et seq.); and

   b. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

(E) Maximum Rental Period

1. Vacation rentals shall be limited to a maximum of 100-day annual cap per calendar year. Vacation rentals which are only used for a partial day (i.e. arrival and departure days) shall be rounded up and counted as a full day.

2. Notwithstanding any language in this Subsection E to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development:

   a. That is subject to the Vacation Ownership and Time-share Act of 2004); and

   b. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

(F) Permit Required.

1. Except as expressly authorized by this Article, no dwelling, property or any portion thereof shall be rented for a term of less than thirty consecutive days.

Renting for less than thirty days pursuant to a purported longer-term lease or by other means intended to evade compliance with this Article is prohibited.

2. A valid permit issued by the City pursuant to this Article is required in order for any person that seeks or receives any rent, payment, fee, commission or compensation in any form, to rent, offer for rent, advertise for rent, or facilitate the rental of a homeshare or vacation rental. For purposes of this Article, the owner of a dwelling unit that is subject to the Vacation Ownership and Time-share Act of 2004 must obtain a valid permit issued by the City pursuant to this Article for the rental of the dwelling unit for non-timeshare purposes for a period of less than thirty days.

3. A short-term rental permit authorizing a vacation rental or homestay shall be issued or renewed by the Community Development Director, or designee if the following minimum findings are met.

   a. The property is compliant with all State and Local codes.
   b. The property complies with the requirements of this Article.
   c. There is no substantial evidence of nuisance behavior from the location.
   d. Issuance of the permit will not exceed the neighborhood cap pursuant to 17-53(C).

4. The Community Development Director shall have the authority to impose additional standards and/or conditions to short-term rental permits as necessary to achieve the objectives of the Article.

(G) Limited Term.

1. Permits for short-term rentals shall be issued or renewed for a maximum term of one year. All permits shall contain the following provision: “This permit shall expire no later than one year after the date of issuance, and is subject to revocation for violation or noncompliance with the requirements or any other applicable provision of the Oxnard City Code.

2. Permit holders that remain in good standing and apply for a renewal permit prior to the expiration of their current permit will be granted a renewal permit. If a permit expires, the request for a permit would be treated as a new permit subject to any established waiting lists.

(H) Owner Requirements and Limitations.

1. Permits may only be issued to the owner(s) of the homeshare or vacation rental property, and shall automatically expire upon sale or transfer of ownership of the

property, in whole or in part. All permits shall include the following provision: "This permit shall automatically expire upon sale or transfer of the property, in whole or in part, or as stated in Section F. whichever comes first."

2. A permit may only be issued for a homeshare or vacation rental property if no owner of the subject homeshare or vacation rental property is also the owner of another homeshare or vacation rental property that is currently permitted under this Article. In addition, if a property contains multiple dwelling units that have not been subdivided pursuant to the subdivision map act (e.g., a duplex, cottages or apartments), only one dwelling unit on the property is eligible for permitting as a homeshare or vacation rental under this Article.

(I) Ineligible Dwellings, Structures and Spaces.

No permit for a homeshare or vacation rental shall be issued for any of the following dwellings:

1. A dwelling subject to a City-imposed covenant, condition or agreement restricting its use to a specific purpose including but not limited to an affordable housing unit, farmworker housing, a superintendent or caretaker dwelling.

2. A dwelling on property fully or partially owned by a corporation, partnership, limited liability company, or other legal entity that is not a natural person, except in the event every shareholder, partner or member of the legal entity is a natural person as established by documentation (which shall be public record) provided by the permit applicant. In the event this exception applies, every such natural person shall be deemed a separate owner of the subject dwelling and property for purposes of this Article.

3. A dwelling on property owned by six or more owners, unless each owner shares common ancestors.

4. A dwelling or structure that has not, if legally required, obtained a full building final inspection or been issued a valid certificate of occupancy by the City Building Official.

5. A mobile home located in a mobile home park.

6. Space in a yard or on a balcony. Camping in a backyard or on a balcony as a form of STR is prohibited.

7. A vehicle, to include an RV, car or boat. Use of a vehicle as a form of STR is prohibited.

8. Those 440 units in the Planned Development Community known as The Colony at Mandalay Beach.

9. Those units in the Harbour Island condominiums.

10. An Accessory Dwelling Unit.

(J) Pre-Permitting Inspection.

Prior to the initial issuance of a permit under this Article, the City Building Official or designee shall conduct an inspection to determine the number of bedrooms within the unit and ensure the dwelling and site comply with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, and other relevant health and safety standards. If any violation is identified during the inspection, no permit shall be issued under this Article until the violation(s) is abated.

(K) Permit Application, Processing and Fees.

1. Applications for the initial issuance and renewal of permits under this Article shall meet the form and content requirements as established by the Community Development Director or designee.

2. Each application shall include a floor plan showing all rooms with each room labeled as to room type and a site plan depicting the location of all on-site parking and existing structures and describing the use of all existing structures.

3. Each application shall include a nuisance response plan containing the information required by Subsection L.

4. Each application shall include a mailing list for notifications pursuant Subsection N(2) along with fees as set forth in the Planning Division fee schedule.

5. Each application shall include an affidavit in a form provided by the Community Development Director or designee, signed by each owner of the subject property, agreeing to comply with the operational standards of Subsection (M) and the property management requirements of Subsection (N) should the permit be issued. The affidavit form shall also include the following statement: “The City considers the short-term rental of dwellings to be businesses that are operated in residential zones. Short-term rentals are not a by-right use. Instead, they are only allowed if operated in strict compliance with the rules and requirements of Chapter 17, Article IV, Section 17-53 of the Oxnard City Code. Violations are grounds for permit revocation, fines, and/or criminal prosecution.”

6. For a homeshare only, annually provide to the Planning Division proof of a homeowner's exemption from the County Assessor and a fully-executed statement that the property is owner occupied.

7. An annual permit fee authorized by the fee schedule applicable to the Planning Division may be collected upon the filing of an application to cover the City's costs of administering this Article.

8. Prior to permit issuance under this Article, the applicant shall: (i) pay all applicable City fees; (ii) provide contact information for the owner of a homeshare, or designate and provide contact information for one or two property managers of a vacation rental, pursuant to Subsection (L); (iii) provide a fully-executed affidavit pursuant to Subsection (K)(5); (vi) provide proof of compliance with the applicable business tax and licensing, and transient occupancy tax, requirements pursuant to Subsection (N)(6); (v) for a homeshare only, proof of homeowner's exemption and statement that property is owner occupied pursuant to Subsection (K)(6) ; (vi) provide proof of insurance pursuant to Subsection (N)(7); and (vii) provide the fully-executed defense and indemnification agreement pursuant to Subsection (N)(8).

9. Notwithstanding any other provision of this Article, no public hearing shall be conducted regarding permit applications under this Article. Decisions of the Community Development Director or designee on permit applications to approve a short-term rental permit are final when rendered and are not subject to appeal.

(L) Nuisance Response Plan

Each nuisance response plan accompanying a vacation rental application shall contain the following information and otherwise be in a form required by the Community Development Department.

1. The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a vacation rental pursuant to the permit.

2. The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the vacation rental by tenants, their visitors and/or their guests. For the purposes of this Section, a return telephone call to a complainant shall be deemed "prompt" when:

a. Between the hours of 7:01 a.m. and 9:59 p.m. the call to contact the renter to correct the problem is made within thirty minutes of receiving the initial complaint;

b. Between 10:00.p.m. and 7:00 a.m., the quiet hours, the call to contact the renter to correct the problem is made within fifteen minutes of receiving the initial complaint.

3. No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and

4. Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

5. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

6. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this section "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.

(M) Operational Standards.

The following minimum operational standards apply to all homeshares and vacation rentals. All owners, renters, occupants and visitors of homeshares and vacation rentals shall comply with the operational standards. The owner(s) and permittee(s) of homeshares and vacation rentals are ultimately responsible for ensuring compliance with, and are liable for violations of, these operational standards.

1. Limits On Duration Of Stay.

a. The property owner shall require all occupants of vacation rentals to agree to a minimum stay of no less than three nights.

b. Vacation rental units may be rented for no more than 100 days during any calendar year. Notwithstanding any language in this Subsection M to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development that is subject to the Vacation

Ownership and Time-share Act of 2004) and that became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

2. Occupancy Limits.

   a. Vacation rental overnight occupancy shall be limited to a maximum of two persons per bedroom occupying up to five bedrooms, plus two additional persons, up to a maximum of ten persons.

   b. Homeshares shall have a maximum of two bedrooms available for rental. Overnight occupancy shall be limited to a maximum of five rental guests.

   c. Inclusive of the owner(s) in the case of homeshares, the maximum number of total persons allowed on the property at any time shall not exceed the maximum overnight occupancy plus six additional persons. No person who is not staying overnight at the homeshare or vacation rental shall be on the property during the quiet hours stated in Subsection (M).4.b.

   d. Homeshares and vacation rentals shall not be rented to more than one group at a time; no more than one rental agreement shall be effective for any given date.

   e. The primary occupant of a vacation rental shall be an adult 21 years of age or older. The primary occupant shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Article and/or this code.

3. Parking Requirements.

   1. Parking shall be provided on the property as follows:
      i. a minimum of one parking space for vacation rentals in a studio or one bedroom;
      ii. a minimum of two parking spaces for homeshares and vacation rentals with two to four bedrooms; and
      iii. a minimum of three parking spaces for homeshares and vacation rentals with five or more bedrooms.

   2. Permitted garages and driveways on the property shall be unobstructed and made available for renter parking.

4. Noise.

a. No use or activity associated with a homeshare or vacation rental shall at any time create unreasonable noise or disturbance as provided in Chapter 7, Article XI – Sound Regulations of the Oxnard City Code.

b. Quiet hours shall be observed from 10:00 p.m. to 7:00 a.m.

c. Pursuant to OCC Section 7-147.1 the sale, offer to sell, use, or possession of fireworks is prohibited in the City of Oxnard and use by a tenant or guest of an STR is also a violation of this Article.

5. Events and Activities.

No homeshare or vacation rental property shall be rented or used for any event or activity attended by more persons than are allowed on the property pursuant to Subsection (M)(2) that violates any noise standard of Subsection (M)(4), or that violates any other standard or requirement of this Article or any other local, state or federal law.

6. Refuse**.**

Adequate waste collection facilities and services shall be provided for a homeshare or vacation rental at all times. Waste bins and refuse shall not be left within public view, except in proper containers for the purpose of collection on the scheduled collection day(s). The waste collection schedule and information about recycling and green waste separation and disposal shall be included in the rental agreement and posted conspicuously inside the rental unit.

(N) Property Management Requirements.

The following minimum property management requirements apply to all homeshares and vacation rentals.

1. Owner/Property Manager Requirements.

a. At all times a homeshare is rented out, a homeshare owner shall be onsite between the hours of 10:00 p.m. and 7:00 a.m., and within twenty-five miles of the property at all other times, to ensure compliance with the standards and requirements of this Article.

b. At all times a vacation rental is rented out, the vacation rental shall have one or two designated property managers, one of whom shall be available at all times and within twenty-five miles of the property, to ensure compliance with the standards

and requirements of this Article. An owner may serve as one of the property managers.

c. Each application under this Article shall include the name, address, and telephone number(s) at which the property manager(s) can be reached at all times, along with the signature of each property manager. Any requested change to a designated property manager shall be made through a formal written request to the Community Development Director or designee, and shall include the signature of the proposed property manager and the desired effective date of the change. No change to a vacation rental's designated property manager shall take effect unless and until approved in writing by the Community Development Director or designee.

2. Permit Notification.

a. The Planning Division shall provide a mailed notice of permit issuance, and of each permit renewal, to the owner of the subject property and the owners of all real property situated within a radius of 300 feet of the exterior boundaries of the Assessor's Parcel(s) which is the subject of the application.

b. At a minimum, the notice of permit issuance shall include: (i) directions to view a copy of the nuisance response plan; and (ii) contact information for the Code Compliance Division.

3. Information In Rental Agreements

a. Each rental agreement for a vacation rental or homeshare shall prominently display the following information:

(1) The permitted occupancy and guest limits for both day and night;

(2) Notification that quiet hours shall be observed between 10:00 p.m. and 7:00 a.m.;

(3) Notification that no outdoor amplified music or sound is allowed during quiet hours and a copy of Chapter 7, Article XI – Sound Regulations of the Oxnard City Code as may be amended from time to time;

(4) Notification that the property cannot be used for events that exceed the applicable occupancy or guest limits, or that violate the quiet hours, noise standards or any other standard or requirement of this Article;

(5) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed;

(6) The waste collection schedule and the tenant's responsibilities regarding waste collection.

(7) Notification that the sale, possession or use of fireworks in the City of Oxnard is prohibited.

4. Information in Advertising and Listings

a. Each advertisement and listing for a vacation rental or homeshare shall prominently display the following information:

(1) The City-issued land use permit number authorizing the homeshare or vacation rental under this Article;

(2) The current City issued Business License Tax Certificate identification number, if required for the operation.

(3) All advertisements for homeshares shall state that the unit is an owner-occupied dwelling, and the owner will be present in the home.

(4) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed.

b. No advertisements or notices regarding the availability of a dwelling for homeshare or vacation rental use shall be posted on the property.

5. Posting Inside of Dwellings.

The following information, as well as all information required by Subsection (N)(3), shall be posted in a conspicuous location inside the dwelling within six feet of the main entrance of the homeshare or vacation rental:

a. The name and contact information for the designated property manager of a vacation rental or owner of a homeshare, and the telephone number(s) at which the person can be reached at all times;

b. The waste collection schedule and information about recycling and green waste separation and disposal;

c. Notification that the property owner, renter, and occupants are subject to criminal citation and fines, civil penalties and/or permit revocation for violations of the unit's occupancy limits, noise standards and other operational standards.

6. Business License; Business Taxes; Transient Occupancy Tax.

The owner of a vacation rental or homeshare shall acquire and maintain a valid City business license, timely pay annual business taxes evidenced by a business tax certificate, and obtain and maintain a valid City transient occupancy tax registration certificate and timely pay all required City transient occupancy taxes.

7. Insurance**.**

The owner shall maintain an insurance policy that includes coverage for commercial/business general liability with a minimum limit of $1,000,000 per occurrence for claims of personal injury or property damage. Proof of such insurance coverage shall be provided with each permit application under this Article, and shall be made available to the Community Development Director or designee upon request.

8. Defense and Indemnification.

All owners of a homeshare or vacation rental shall be jointly and severally responsible to defend and indemnify the City and all of its officials, employees and agents from and against all third-party claims, causes of action, fines, damages and liabilities of whatever nature arising from or related to the processing and issuance of a permit under this Article and/or from the operation of the homeshare or vacation rental. Upon submittal of a permit application under this Article, all owners of the homeshare or vacation rental shall execute a written agreement on a form provided by the Community Development Director or designee implementing this defense and indemnification requirement.

9. Record-Keeping.

The owner of a homeshare or vacation rental shall keep and preserve all records as may be necessary to demonstrate compliance with the standards and requirements of this Article. These records shall include but are not limited to all rental agreements entered into, advertisements and online listings. The records shall be maintained during the term of the permit issued under this Article and subsequent renewal up to two years, and shall be made available in electronic format for the City's review upon request of the Community Development Director or designee.

(O) Inspection and Monitoring.

1. Inspections.

In addition to the pre-permitting inspection of a homeshare or vacation rental pursuant to Subsection (J), upon reasonable notice, City staff shall be given access to the dwelling and site to conduct an inspection during the term of the permit to ensure continued operation of the homeshare or vacation rental in compliance with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, safety, and other relevant issues.

2. Inspection, Monitoring and Code Enforcement Costs.

City monitoring shall be required for each homeshare and vacation rental operation issued a permit. The permittee shall be responsible for all inspection and monitoring costs associated with the operation. Monitoring may be conducted by a third party compliance company hired by the City. The permittee shall also be responsible for any and all code enforcement costs, calculated at a full cost recovery rate, related to their property.

(P) Permit Fees

The Community Development Department shall assess fees for a short-term rental permit, as set by the City Council. Fees and deposits set forth in this Article may be adjusted each year by the City Council, reflecting the costs of administering the short-term rental permit, and enforcing the requirements of this Section.

(Q) Complaints and Violations.

1. Complaints.

a. Complaints regarding the condition, operation or conduct of the renters, occupants or visitors of a homeshare or vacation rental shall be directed to the vacation rental property manager or homeshare owner for investigation and resolution. The property manager or owner shall be available by phone at all times the dwelling is rented out as a homeshare or vacation rental.

b. Upon receipt of a complaint that any renter, occupant or visitor of a homeshare or vacation rental has created unreasonable noise or disturbance and/or potentially violated any other operational standard of this Article the property manager or owner shall take all necessary actions to promptly resolve the issue, including by initially contacting the renter to correct the problem within thirty minutes, or within fifteen minutes during the quiet hours between 10:00 p.m. and 7:00 a.m., after the complaint is first received.

c. Within twenty-four hours after first receiving a complaint pursuant to subsection (b) above, the property manager or owner shall complete the online reporting form provided by the Community Development Director or designee to: (1) report and describe the complaint, including the time the complaint was first received; (2) describe all actions taken to resolve the issue, including the time each action was taken; and (3) describe the resolution or current status.

d. A property manager's or owner's failure to promptly resolve a complaint pursuant to subsection (b) above which the Planning Division deems to be valid, or to timely and fully report the complaint to the Community Development Director or designee on the online reporting form, shall each constitute a separate violation of this Article.

e. Individuals who file false reports of nuisance activities or other violations of this ordinance shall be subject to fine and prosecution pursuant to California Penal Code Section 148.5 and the complainant will be responsible for the costs associated with the service call by the Police Department or Code Enforcement.

2. Violations**.**

Each of the following acts or omissions related to the operation or use of a homeshare or vacation rental is unlawful and constitutes a violation of this Article. Owners are jointly and severally responsible and liable, along with any other responsible person, for each violation committed with respect to their homeshare or vacation rental. Each day a violation occurs constitutes a separate, additional violation:

a. Engaging in an act in violation of the permitting requirement of Subsection (F);

b. Failure to comply with an operational standard of Subsection (M);

c. Failure to comply with a property management requirement of Subsection (N);

d. Failure to comply with the complaint investigation, resolution and/or reporting requirements of Subsection (Q)(1); and

e. Failure to timely remit to the City any cost or fee pursuant to this Article

(R) Revocation or Suspension of Permit.

1. The Community Development Director may revoke, or suspend a vacation rental or homeshare permit for one or more of the following reasons:

    a. A property transfer triggering property tax reassessment pursuant to the California Revenue and Taxation Code Section 60 et seq., as determined by the Ventura County Assessor such that the vacation rental or homeshare permit associated with the property shall expire and shall also become nonrenewable at the time of the property transfer.

    b. The permittee has made a false, misleading or fraudulent statement of material fact in the application for the vacation rental or homeshare permit, in the information required to be submitted to the city, or in response to inquiries by the city.

    c. The permittee engaged in any of the following conduct related to this section that:

        (1) Resulted in a citation or conviction against the permittee;
        (2) Violated local, state or federal law;
        (3) Constituted a public nuisance;
        (4) Breached any condition, requirement, or restriction of the vacation rental or homeshare permit; or
        (5) Constituted a hazard to public peace, health, or safety.

    d. Failure to pass inspections required under the provisions of Subsection (J).

    e. Three or more verified and valid complaints of any violation of the Oxnard City Code, state or federal law, as determined by the Community Development Director, within a twelve-month period, shall be grounds for permit revocation.

2. A Vacation Rental or Homeshare Permit may be revoked, suspended, or additional conditions may be imposed by the Community Development Director by providing written notice to the permittee setting forth the basis of the intended action and giving the permittee an opportunity, within fourteen calendar days, to present responding information to the department of planning and community development.

3. After the fourteen-day period, the Community Development Director shall determine whether to revoke the permit, suspend the permit, or impose additional conditions upon the permit and thereafter, give written notice of its decision to the permittee. The permit shall be deemed to be valid until the written notice of the decision has been issued.

(S) Violations Declared A Public Nuisance.

Each and every violation of the provisions of this Article is hereby deemed unlawful and a public nuisance.

(T) Each Violation a Separate Offense.

Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Oxnard. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Oxnard may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the person/s or entity to which the STR permit was issued and by tenants under contract to use the STR. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a STR permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).

(U) Criminal Penalties.

Each and every violation of the provisions of this Article may at the discretion of the District Attorney or City Attorney be prosecuted as an infraction or misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) for the first violation, two thousand dollars ($2,000) for the second violation, and three thousand dollars ($3,000) and revocation of the permit for a period of two years after which the property owner would have to reapply for the third violation each day a violation is committed or permitted to continue shall constitute a separate offense. The fine for operating an unlicensed and/or unpermitted STR shall be $5,000 per day.

(V) Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

(W) Appeals.

A property owner or duly appointed designee may appeal a decision of the Community Development Director to deny, revoke, or suspend a short-term rental permit pursuant to Chapter 1, Article V-Administrative Hearings of the Oxnard City Code."

Section 11. 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 12. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 13. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption 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 December 3, 2019, was adopted on December ___, 2019 to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of ___, 2019 by the following vote:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

ORDINANCE NO. 2971

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING OXNARD CITY CODE CHAPTER 7, ARTICLE III, SECTION 7-56 TO ESTABLISH FINES FOR VIOLATION OF SHORT TERM RENTAL REGULATIONS

WHEREAS, the City of Oxnard intends to adopt regulations on fines for Homestays and Short-Term Rental Units ("STRs"); and

WHEREAS, on March 2016, the City conducted an online community survey that contained a series of questions designed to receive public input on STRs; and

WHEREAS, on August 16, 2016, staff held a duly noticed public Community Workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions; and

WHEREAS, on November 3, 2016, the Planning Commission of the City of Oxnard (the "Planning Commission") held a duly noticed study session to receive input on specific STR regulations; and

WHEREAS, on June 1, 2017, the Planning Commission conducted a duly noticed public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting, and the STR processing guidelines; and

WHEREAS, on February 26, 2019, the City Council's Housing and Economic Development Committee (HEDC) held a duly noticed meeting to discuss policy questions and provide comments and the STR ordinances; and

WHEREAS, on July 9, 2019, the HEDC held a duly noticed meeting to discuss the draft ordinance with a focus on proposed changes to the ordinance; and

WHEREAS, on March 25, 2019, City Council held a duly noticed special meeting and received public input and provided direction to staff regarding the STR ordinances; and

WHEREAS, on August 1, 2019, the Planning Commission held a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-04 regarding the adoption of specific rules and regulations for STRs within Chapters 16 and 17 of the Oxnard City Code; and

WHEREAS, a recommendation was made to establish escalating fines for violations of the STR ordinance; and

WHEREAS, the establishment of escalating fines required an amendment to Chapter 7 – Nuisances, Article III Civil Fines, of the Oxnard City Code to establish those fines; and

WHEREAS, after considering all the evidence in the record, including (but not limited to) the staff report (including the attachments), written submittals and public testimony, the

Planning Commission of the City of Oxnard recommended adoption of a Zone Text Amendment to amend Chapters 16 and 17 related to STRs including establishment of escalating fines;

WHEREAS, on September 24, 2019, the HEDC held a duly noticed meeting to receive a summary report on the Planning Commission recommendations and provided input on the recommendations; and

WHEREAS, on November 5, 2019, the City Council held a duly noticed public hearing to consider an amendment to Chapter 7, Article III of the Oxnard City Code; and

WHEREAS, at the public hearing, the City Council considered all the evidence in the record, including (but not limited to) the Planning Commission Resolution, the staff report (including the attachments), written submittals and public testimony before making a final decision on November 5, 2019 regarding establishing escalating fines for short-term rentals.

WHEREAS, in accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), the City Council has determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. In view of all the evidence in the record and based on the foregoing findings, the City Council hereby approves the Oxnard City Code Amendment.

Section 2. Subsection C is hereby added to Chapter 7, Article III, Section 7-56, of the Oxnard City Code to read as follows:

SEC. 7-56. AMOUNT.

(C) The fines for violations of the regulations established by the coastal and non-coastal Short-term Rental Ordinances shall be regulated by said ordinances.

Section 3. 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 decisions 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 4. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 5. The City Clerk shall certify to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) calendar days of the adoption and shall post a certified copy of this ordinance, include the vote for and against the same, in the office of the City Clerk in accordance with Government Code Section 36933. Ordinance No. 2971 was first read on _____, 2019, finally adopted on _____, 2019, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ___ day of _____, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Tim Flynn, Mayor

ATTEST:

APPROVED AS TO FORM:

_____
Michelle Ascension, City Clerk

_____
Stephen M. Fischer, City Attorney

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE OXNARD CITY CODE REGARDING SHORT-TERM RENTAL UNITS BY ADDING CHAPTER 17, ARTICLE IV, SECTION 17-53, AND AMENDING CHAPTER 17, ARTICLE II ADDING SUBSECTION (B) (10) TO SECTION 17-10. R-B-1, SINGLE-FAMILY BEACH, SUB-ZONE; SECTION 17-11. R-W-1, SINGLE-FAMILY WATER-ORIENTED, SUB-ZONE; SECTION 17-12. R-W-2, TOWNHOUSE WATER-ORIENTED, SUB-ZONE; SECTION 17-13. R-2-C, COASTAL MULTIPLE-FAMILY, SUB-ZONE; SECTION 17-14. R-3-C, COASTAL MEDIUM DENSITY MULTIPLE-FAMILY, SUBZONE; ADDING SUBSECTION (B) (3) TO SECTION 17-15. CPC, COASTAL PLANNED COMMUNITY SUB-ZONE; AND ADDING SUBSECTION (B) (9) TO SECTION 17-25. R-BF, BEACHFRONT RESIDENTIAL SUB-ZONE REGARDING SHORT-TERM RENTAL UNITS

WHEREAS, the City of Oxnard intends to adopt regulations on Homestays and Short-Term Rental Units ("STRs"); and

WHEREAS, on March 2016, the City conducted an online community survey that contained a series of questions designed to receive public input on STRs; and

WHEREAS, on August 16, 2016, staff held a duly noticed public Community Workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions; and

WHEREAS, on November 3, 2016, the Planning Commission of the City of Oxnard (the "Planning Commission") held a duly noticed study session to receive input on specific STR regulations; and

WHEREAS, on June 1, 2017, the Planning Commission conducted a duly noticed public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting, and the STR processing guidelines; and

WHEREAS, on February 26, 2019, the City Council's Housing and Economic Development Committee (HEDC) held a duly noticed meeting to discuss policy questions and provide comments; and

WHEREAS, on July 9, 2019, the HEDC held a duly noticed meeting to discuss the draft ordinance with a focus on proposed changes to the ordinance; and

WHEREAS, on March 25, 2019, City Council held a duly noticed special meeting and received public input and provided direction to staff; and

WHEREAS, on August 1, 2019, the Planning Commission held a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-04 (hereafter, the "Zone Text Amendment") regarding the adoption of specific rules and regulations for short term rentals within the Oxnard City Code; and

WHEREAS, after considering all the evidence in the record, including (but not limited to) the staff report (including the attachments), written submittals and public testimony, the Planning Commission recommended that the City Council of the City of Oxnard (the "City Council") adopt the Zone Text Amendment; and

WHEREAS, on September 24, 2019, the HEDC held a duly noticed meeting to receive a summary report on the Planning Commission recommendations and provided input on the recommendations; and

WHEREAS, on November 5, 2019, the City Council held a duly noticed public hearing to consider the Zone Text Amendment; and

WHEREAS, at the public hearing, the City Council considered all the evidence in the record, including (but not limited to) the Planning Commission Recommendation, the staff report (including the attachments), written submittals and public testimony before making a final decision on November 5, 2019 regarding the regulation of short-term rentals; and

WHEREAS, in accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), the City Council has determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations; and

WHEREAS, the City Council authorizes the granting of a temporary STR permit for homeowners that were operating an STR in Oxnard prior to March 25, 2019. The permit must be applied for within 60 days of the effective date of this ordinance, is good for one year and shall not be automatically renewed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. Based upon the foregoing recitals as required per OCC 17-57(C)(8)(c), which are incorporated herein, the City Council finds:

A. The Zone Text Amendment is consistent with the current certified local Coastal Land Use Plan or said Coastal Land Use Plan shall be amended concurrently in order to maintain consistency pursuant to the Coastal Act.

The local Coastal Land Use Plan shall be amended concurrently with the Zone Text Amendment through a Local Coastal Plan Amendment filed with the California Coastal Commission to ensure internal consistency. As such, this Zone Text Amendment will meet this finding.

B. The application for the Zone Text Amendment has been processed in accordance with procedures required by Oxnard City Code Section 17-58.

The proposed Zone Text Amendment has been processed in accordance with the procedures required by Section 17-58 (Hearings and Appeals), which include providing notice given at least 10 days prior to the hearing date in a newspaper of general circulation. Therefore, this Project meets this finding.

C. Cumulative amendments or changes maintain or enhance the coastal resources as identified and protected in the originally certified Coastal Land Use Plan.

The Zone Text Amendment creates regulations to manage activity that is currently being undertaken in the Coastal Zone, i.e. short-term rentals. Consideration was given in the regulations to ensure that the regulations focus on managing issues created by short-term rentals while maintaining access to the Coastal Zone thereby enhancing the certified local Coastal Land Use Plan. Therefore, this Zone Text Amendment meets this finding.

D. The Zone Text Amendment is appropriate in light of an established need for the requested amendment at the time and location anticipated by said amendment.

As a result of the rise in the number of short-term rentals in the Coastal Zone, the residents and City have experienced an increase in issues directly related to the use of residential properties in the Coastal Zone as short-term rentals. The issues include (but are not limited to) noise, trash and parking problems. The proposed Zone Text Amendment addresses these issues and other anticipated issues through the proposed standards and enforcement regulations that address the established need for the amendment. Therefore, this Zone Text Amendment meets this finding.

E. The proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare.

The adoption of Zone Text Amendment is a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by clarifying the implementation procedures of industrial zones throughout the City of Oxnard. As such, this Zone Text Amendment meets this finding.

F. The Zone Text Amendment maintains or enhances the provisions for public access within the Coastal Zone.

Short-term rentals are an existing use that is not currently allowed or regulated within the City's adopted Coastal Zoning regulations (Chapter 17 of the Oxnard City Code). The regulations will make short-term rentals a permitted use in select zones within the Coastal Zone once the required permit is obtained, and the regulations will establish operational requirements to manage the issues that arise as a result of short-term rentals. The Zone Text Amendment allows for an increase in the number of short-term rentals currently available in the Coastal Zone, thereby creating additional, quality overnight accommodations within the Coastal Zone. Therefore, this Zone Text Amendment meets this finding.

G. The Zone Text Amendment is consistent with the goals, policies, and actions of the City of Oxnard 2030 General Plan and will not conflict with the 2030 General Plan.

The zone text amendment supports the 2030 General Plan goals of improving community safety and quality of life, and strengthening neighborhood development. Additionally, the amendment will aid in the creation of a vibrant and economically sustainable commercial and retail sector throughout the City and enhance business development.

H. The Zone Text Amendment reflects the input of residents, stakeholders, and public officials, and implements the General Plan's vision and desire for the community, is adopted in the public's interest, and is consistent with federal and state law.

The zone text amendment has evolved through a process of public engagement with the entire community, review of regulations adopted by other jurisdictions in Southern California and is adopted in the public's interest to address concerns and issues brought to the City by residents. The regulations are based on current law and precedent established in the State of California.

Section 2. In view of all the evidence in the record and based on the foregoing findings, the City Council hereby approves the Zone Text Amendment.

Section 3. Chapter 17, Article II, Subsection (B) of Section 17-10 of the Oxnard City Code relating to the R-B-1, Single-Family Beach, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 4. Chapter 17, Article II, Subsection (B) of Section 17-11 of the Oxnard City Code relating to the, R-W-1, Single-Family Water-Oriented, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 5. Chapter 17, Article II, Subsection (B) of Section 17-12 of the Oxnard City Code relating to the, R-W-2, Townhouse Water-Oriented, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 6. Chapter 17, Article II, Subsection (B) of Section 17-13 of the Oxnard City Code relating to the R-2-C, Coastal Multiple-Family, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 7. Chapter 17, Article II, Subsection (B) of Section 17-14 of the Oxnard City Code relating to the R-3-C, Coastal Medium Density Multiple-Family, Sub-Zone is hereby amended to read as follows:

"(10) Short-term rentals consistent with Section 17-53."

Section 8. Chapter 17, Article II, Subsection (B) of Section 17-15 of the Oxnard City Code relating to the CPC, Coastal Planned Community Sub-Zone is hereby amended to read as follows:

"(3) Short-term rentals consistent with Section 17-53."

Section 9. Chapter 17, Article II, Subsection (B) of Section 17-25 of the Oxnard City Code relating to the R-BF, Beachfront Residential Sub-Zone is hereby amended to read as follows:

"(9) Short-term rentals consistent with Section 17-53."

Section 10. Section 17-53 is hereby added to Article IV of Chapter 17 of the Oxnard City Code to read as follows:

"**SEC. 17-53 SHORT-TERM RENTAL UNITS**

(A) Purpose ~~And~~and Intent.

The purposes of short-term rental unit regulations are to establish standards and requirements for the temporary rental of dwellings as accessory uses in order to: (1) ensure that the use of dwellings as short-term rental units does not adversely impact long-term housing opportunities in the City of Oxnard; (2) ensure that short-term rental units are compatible with surrounding land uses; and (3) protect the health, safety and welfare of the short-term rental units' renters, occupants, neighboring residents, as well as the general public and environment.

(B) Definitions.

When used in this Article, the following words shall have the meanings ascribed to them as set forth herein.

Homeshare – A dwelling which is the primary residence of an owner who possesses at least a twenty percent ownership interest in the subject parcel, with any portion of the dwelling rented for a period less than thirty consecutive days when said owner is physically present in the same dwelling, with no meals or food provided to the renter or renters. A homeshare is not considered a home occupation. Use of a dwelling for occasional home exchange is not considered a homeshare.

Owner – A person with a full or partial fee title ownership interest in the subject property. For a property held in a trust, each trustee (but no trust beneficiary) is considered an owner.

Primary Residence – A dwelling which is the owner's main living location as evidenced by the owner's address-of-record for official documents such as the property's title, income tax returns, voter registration, or a current property tax bill.

Rent – The terms rent, rented and rental mean allowing use of a dwelling or property, or any portion thereof, in exchange for consideration in any form.

Short-term Rental - The rental of a residential unit for a period less than thirty (30) consecutive calendar days. Short-term rentals include both homeshares and vacation rentals.

Vacation Rental – A dwelling, any portion of which is rented for a period less than thirty consecutive days when the owner is not physically present, with no meals or food provided to the renter or renters. A vacation rental is not considered a home occupation under this Section. Use of a dwelling for occasional home exchange is not considered a vacation rental.

(C)Vacation Rental Permit Cap.

The number of vacation rental permits shall be limited by a 5% cap per General Plan neighborhood as established in the City of Oxnard Neighborhood Map adopted as Figure 3-4 in the 2030 General Plan or its successor document. The number of vacation rental permits shall also be limited to 5% in the Residential Beach Front (R-BF) zone. The total number of vacation rental permits issued to residential dwellings in the City and the R-BF zone shall not exceed 5% of the total dwelling units in each neighborhood or zone. If no short-term rental permits are available pursuant to the cap on short-term rentals, the Director or designee shall place interested property owners on a waiting list in the order in

which they were received. If a permit becomes available, applications shall be accepted and reviewed in the order they are listed on the waiting list, subject to Subsection (K).

(D) Separation Requirement.

1. No Vacation Rental shall be issued a permit when a Vacation Rental permit has already been issued to another property within ~~100~~200 feet of the proposed Vacation Rental. The ~~100~~200 feet is to be measured horizontally from the lines of property ownership as established by the legal description for the property on record with the County of Ventura.

2. Notwithstanding any language in this Subsection D to the contrary, the 200-foot separation requirement shall not apply to a dwelling unit within a development:

a. That is subject to the Vacation Ownership and Time-share Act of 2004 (Business and Professions Code Section 11210 et seq.); and

b. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

(E) Maximum Rental Period

1. Vacation rentals shall be limited to a maximum of 100-day annual cap per calendar year. Vacation rentals which are only used for a partial day (i.e. arrival and departure days) shall be rounded up and counted as a full day.

2. Notwithstanding any language in this Subsection E to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development:

a. That is subject to the Vacation Ownership and Time-share Act of 2004); and

b. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

(F) Permit Required.

1. Except as expressly authorized by this Article, no dwelling, property or any portion thereof shall be rented for a term of less than thirty consecutive days. Renting for less than thirty days pursuant to a purported longer-term lease or by other means intended to evade compliance with this Article is prohibited.

2. A valid permit issued by the City pursuant to this Article is required in order for any person that seeks or receives any rent, payment, fee, commission or compensation in any form, to rent, offer for rent, advertise for rent, or facilitate the rental of a homeshare or vacation rental. For purposes of this Article, the owner of a dwelling unit that is subject to the Vacation Ownership and Time-share Act of 2004 must obtain a valid permit issued by the City pursuant to this Article for the rental of the dwelling unit for non-timeshare purposes for a period of less than thirty days.

3. A short-term rental permit authorizing a vacation rental or homestay shall be issued or renewed by the Community Development Director, or designee if the following minimum findings are met.

a. The property is compliant with all State and Local codes.
b. The property complies with the requirements of this Article.
c. There is no substantial evidence of nuisance behavior from the location.
d. Issuance of the permit will not exceed the neighborhood cap pursuant to 17-53 (C).

4. The Community Development Director shall have the authority to impose additional standards and/or conditions to short-term rental permits as necessary to achieve the objectives of the Article.

(G) Limited Term.

1. Permits for short-term rentals shall be issued or renewed for a maximum term of one year. All permits shall contain the following provision: "This permit shall expire no later than one year after the date of issuance, and is subject to revocation for violation or noncompliance with the requirements or any other applicable provision of the Oxnard City Code."

2. Permit holders that remain in good standing and apply for a renewal permit prior to the expiration of their current permit will be granted a renewal permit. If a permit expires, the request for a permit would be treated as a new permit subject to any established waiting lists.

(H) Owner Requirements ~~And~~and Limitations.

1. Permits may only be issued to the owner(s) of the homeshare or vacation rental property, and shall automatically expire upon sale or transfer of ownership of the property, in whole or in part. All permits shall include the following provision: "This permit shall automatically expire upon sale or transfer of the property, in whole or in part, or as stated in Section F. whichever comes first."

2. A permit may only be issued for a homeshare or vacation rental property if no owner of the subject homeshare or vacation rental property is also the owner of another homeshare or vacation rental property that is currently permitted under this Article. In addition, if a property contains multiple dwelling units that have not been subdivided pursuant to the subdivision map act (e.g., a duplex, cottages or apartments), only one dwelling unit on the property is eligible for permitting as a homeshare or vacation rental under this Article.

(I) Ineligible Dwellings, Structures and Spaces.

No permit for a homeshare or vacation rental shall be issued for any of the following dwellings:

1. A dwelling subject to a City-imposed covenant, condition or agreement restricting its use to a specific purpose including but not limited to an affordable housing unit, farmworker housing, a superintendent or caretaker dwelling.

2. A dwelling on property fully or partially owned by a corporation, partnership, limited liability company, or other legal entity that is not a natural person, except in the event every shareholder, partner or member of the legal entity is a natural person as established by documentation (which shall be public record) provided by the permit applicant. In the event this exception applies, every such natural person shall be deemed a separate owner of the subject dwelling and property for purposes of this Article.

3. A dwelling on property owned by six or more owners, unless each owner shares common ancestors.

4. A dwelling or structure that has not, if legally required, obtained a full building final inspection or been issued a valid certificate of occupancy by the City Building Official.

5. A mobile home located in a mobile home park.

6. Space in a yard or on a balcony. Camping in a backyard or on a balcony as a form of STR is prohibited.

7. A vehicle, to include an RV, car or boat. Use of a vehicle as a form of STR is prohibited.

8. Those 440 units in the Planned Development Community known as The Colony at Mandalay Beach.

9. Those units in the Harbour Island condominiums.

10. An Accessory Dwelling Unit.

(J) Pre-Permitting Inspection.

Prior to the initial issuance of a permit under this Article, the City Building Official or designee shall conduct an inspection to determine the number of bedrooms within the unit and ensure the dwelling and site comply with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, and other relevant health and safety standards. If any violation is identified during the inspection, no permit shall be issued under this Article until the violation(s) is abated.

(K) Permit Application, Processing ~~And~~and Fees.

1. Applications for the initial issuance and renewal of permits under this Article shall meet the form and content requirements as established by the Community Development Director or designee.

2. Each application shall include a floor plan showing all rooms with each room labeled as to room type and a site plan depicting the location of all on-site parking and existing structures and describing the use of all existing structures.

3. Each application shall include a nuisance response plan containing the information required by Subsection L.

4. Each application shall include a mailing list for notifications pursuant Subsection N(2) along with fees as set forth in the Planning Division fee schedule.

5. Each application shall include an affidavit in a form provided by the Community Development Director or designee, signed by each owner of the subject property, agreeing to comply with the operational standards of Subsection (M) and the property management requirements of Subsection (N) should the permit be issued. The affidavit form shall also include the following statement: "The City considers the short-term rental of dwellings to be businesses that are operated in residential zones. Short-term rentals are not a by-right use. Instead, they are only allowed if operated in strict compliance with the rules and requirements of Chapter 17, Article IV, Section 17-53 of the Oxnard City Code. Violations are grounds for permit revocation, fines, and/or criminal prosecution."

6. For a homeshare only, annually provide to the Planning Division proof of a homeowner's exemption from the County Assessor and a fully-executed statement that the property is owner occupied.

7. An annual permit fee authorized by the fee schedule applicable to the Planning Division may be collected upon the filing of an application to cover the City's costs of administering this Article.

8. Prior to permit issuance under this Article, the applicant shall: (i) pay all applicable City fees; (ii) provide contact information for the owner of a homeshare, or designate and provide contact information for one or two property managers of a vacation rental, pursuant to Subsection (L); (iii) provide a fully-executed affidavit pursuant to Subsection (K)(5); (vi) provide proof of compliance with the applicable business tax and licensing, and transient occupancy tax, requirements pursuant to Subsection (N)(6); (v) for a homeshare only, proof of homeowner's exemption and statement that property is owner occupied pursuant to Subsection (K)(6) ; (vi) provide proof of insurance pursuant to Subsection (N)(7); and (vii) provide the fully-executed defense and indemnification agreement pursuant to Subsection (N)(8).

9. Notwithstanding any other provision of this Article, no public hearing shall be conducted regarding permit applications under this Article. Decisions of the Community Development Director or designee on permit applications to approve a short-term rental permit are final when rendered and are not subject to appeal.

(L) Nuisance Response Plan

Each nuisance response plan accompanying a vacation rental application shall contain the following information and otherwise be in a form required by the Community Development Department.

1. The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a vacation rental pursuant to the permit.

2. The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the vacation rental by tenants, their visitors and/or their guests. For the purposes of this Section, a return telephone call to a complainant shall be deemed "prompt" when:

a. Between the hours of 7:01 a.m. and 9:59 p.m. the call to contact the renter to correct the problem is made within thirty minutes of receiving the initial complaint;

b. Between 10:00.p.m. and 7:00 a.m., the quiet hours, the call to contact the renter to correct the problem is made within fifteen minutes of receiving the initial complaint.

3. No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and

4. Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

5. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

6. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this section "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.

(M) Operational Standards.

The following minimum operational standards apply to all homeshares and vacation rentals. All owners, renters, occupants and visitors of homeshares and vacation rentals shall comply with the operational standards. The owner(s) and permittee(s) of homeshares and vacation rentals are ultimately responsible for ensuring compliance with, and are liable for violations of, these operational standards.

1. Limits On Duration Of Stay.

a. The property owner shall require all occupants of vacation rentals to agree to a minimum stay of no less than three nights.

b. Vacation rental units may be rented for no more than 100 days during any ~~calendar year.~~ calendar year. Notwithstanding any language in this Subsection M to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development that is subject to the Vacation Ownership and Time-share Act of 2004) and that became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

2. Occupancy Limits.

a. Vacation rental overnight occupancy shall be limited to a maximum of two persons per bedroom occupying up to five bedrooms, plus two additional persons, up to a maximum of ten persons.

b. Homeshares shall have a maximum of two bedrooms available for rental. Overnight occupancy shall be limited to a maximum of five rental guests.

c. Inclusive of the owner(s) in the case of homeshares, the maximum number of total persons allowed on the property at any time shall not exceed the maximum overnight occupancy plus six additional persons. No person who is not staying overnight at the homeshare or vacation rental shall be on the property during the quiet hours stated in Subsection (M).4.b.

d. Homeshares and vacation rentals shall not be rented to more than one group at a time; no more than one rental agreement shall be effective for any given date.

e. The primary occupant of a vacation rental shall be an adult 21 years of age or older. The primary occupant shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Article and/or this code.

3. Parking Requirements.

1. Parking shall be provided on the property as follows:

i. a minimum of one parking space for vacation rentals in a studio or one bedroom;

ii. a minimum of two parking spaces for homeshares and vacation rentals with two to four bedrooms; and

iii. a minimum of three parking spaces for homeshares and vacation rentals with five or more bedrooms.

2. Permitted garages and driveways on the property shall be unobstructed and made available for renter parking.

4. Noise.

a. No use or activity associated with a homeshare or vacation rental shall at any time create unreasonable noise or disturbance as provided in Chapter 7, Article XI – Sound Regulations of the Oxnard City Code.

b. Quiet hours shall be observed from 10:00 p.m. to 7:00 a.m.

c. ~~No outdoor amplified music/sound shall be allowed during quiet hours when a property is being rented as a homeshare or vacation rental~~C.

Pursuant to OCC Section 7-147.1 the sale, offer to sell, use, or possession of fireworks is prohibited in the City of Oxnard and use by a tenant or guest of an STR is also a violation of this Article.

5. Events ~~And~~and Activities.

No homeshare or vacation rental property shall be rented or used for any event or activity attended by more persons than are allowed on the property pursuant to Subsection (M)(2) that violates any noise standard of Subsection (M)(4), or that violates any other standard or requirement of this Article or any other local, state or federal law.

6. Refuse**.**

Adequate waste collection facilities and services shall be provided for a homeshare or vacation rental at all times. Waste bins and refuse shall not be left within public view, except in proper containers for the purpose of collection on the scheduled collection day(s). The waste collection schedule and information about recycling and green waste separation and disposal shall be included in the rental agreement and posted conspicuously inside the rental unit.

(N) Property Management Requirements.

The following minimum property management requirements apply to all homeshares and vacation rentals.

1. Owner/Property Manager Requirements.

a. At all times a homeshare is rented out, a homeshare owner shall be onsite between the hours of 10:00 p.m. and 7:00 a.m., and within twenty-five miles of the property at all other times, to ensure compliance with the standards and requirements of this Article.

b. At all times a vacation rental is rented out, the vacation rental shall have one or two designated property managers, one of whom shall be available at all times and within

twenty-five miles of the property, to ensure compliance with the standards and requirements of this Article. An owner may serve as one of the property managers.

c. Each application under this Article shall include the name, address, and telephone number(s) at which the property manager(s) can be reached at all times, along with the signature of each property manager. Any requested change to a designated property manager shall be made through a formal written request to the Community Development Director or designee, and shall include the signature of the proposed property manager and the desired effective date of the change. No change to a vacation rental's designated property manager shall take effect unless and until approved in writing by the Community Development Director or designee.

2. Permit Notification.

a. The Planning Division shall provide a mailed notice of permit issuance, and of each permit renewal, to the owner of the subject property and the owners of all real property situated within a radius of 300 feet of the exterior boundaries of the Assessor's Parcel(s) which is the subject of the application.

b. At a minimum, the notice of permit issuance shall include: (i) directions to view a copy of the nuisance response plan; and (ii) contact information for the Code Compliance Division.

3. Information In Rental Agreements

a. Each rental agreement for a vacation rental or homeshare shall prominently display the following information:

(1) The permitted occupancy and guest limits for both day and night;

(2) Notification that quiet hours shall be observed between 10:00 p.m. and 7:00 a.m.;

(3) Notification that no outdoor amplified music or sound is allowed during quiet hours and a copy of Chapter 7, Article XI – Sound Regulations of the Oxnard City Code as may be amended from time to time;~~;~~

(4) Notification that the property cannot be used for events that exceed the applicable occupancy or guest limits, or that violate the quiet hours, noise standards or any other standard or requirement of this Article;

(5) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed;

(6) The waste collection schedule and the tenant's responsibilities regarding waste collection.

(7) Notification that the sale, possession or use of fireworks in the City of Oxnard is prohibited.

4. Information in Advertising and Listings

a. Each advertisement and listing for a vacation rental or homeshare shall prominently display the following information:

(1) The City-issued land use permit number authorizing the homeshare or vacation rental under this Article;

(2) The current City issued Business License Tax Certificate identification number, if required for the operation.

(3) All advertisements for homeshares shall state that the unit is an owner-occupied dwelling, and the owner will be present in the home.

(4) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed.

b. No advertisements or notices regarding the availability of a dwelling for homeshare or vacation rental use shall be posted on the property.

5. Posting Inside of Dwellings.

The following information, as well as all information required by Subsection (N)(3), shall be posted in a conspicuous location inside the dwelling within six feet of the main entrance of the homeshare or vacation rental:

a. The name and contact information for the designated property manager of a vacation rental or owner of a homeshare, and the telephone number(s) at which the person can be reached at all times;

b. The waste collection schedule and information about recycling and green waste separation and disposal;

c. Notification that the property owner, renter, and occupants are subject to criminal citation and fines, civil penalties and/or permit revocation for violations of the unit's occupancy limits, noise standards and other operational standards.

6. Business License; Business Taxes; Transient Occupancy Tax.

The owner of a vacation rental or homeshare shall acquire and maintain a valid City business license, timely pay annual business taxes evidenced by a business tax certificate, and obtain and maintain a valid City transient occupancy tax registration certificate and timely pay all required City transient occupancy taxes.

7. Insurance**.**

The owner shall maintain an insurance policy that includes coverage for commercial/business general liability with a minimum limit of $1,000,000 per occurrence for claims of personal injury or property damage. Proof of such insurance coverage shall be provided with each permit application under this Article, and shall be made available to the Community Development Director or designee upon request.

8. Defense ~~And~~and Indemnification.

All owners of a homeshare or vacation rental shall be jointly and severally responsible to defend and indemnify the City and all of its officials, employees and agents from and against all third-party claims, causes of action, fines, damages and liabilities of whatever nature arising from or related to the processing and issuance of a permit under this Article and/or from the operation of the homeshare or vacation rental. Upon submittal of a permit application under this Article, all owners of the homeshare or vacation rental shall execute a written agreement on a form provided by the Community Development Director or designee implementing this defense and indemnification requirement.

9. Record-Keeping.

The owner of a homeshare or vacation rental shall keep and preserve all records as may be necessary to demonstrate compliance with the standards and requirements of this Article. These records shall include but are not limited to all rental agreements entered into, advertisements and online listings. The records shall be maintained during the term of the permit issued under this Article and subsequent renewal up to two years, and shall be made available in electronic format for the City's review upon request of the Community Development Director or designee.

(O) Inspection ~~And~~and Monitoring.

1. Inspections.

In addition to the pre-permitting inspection of a homeshare or vacation rental pursuant to Subsection (J), upon reasonable notice, City staff shall be given access to the dwelling and site to conduct an inspection during the term of the permit to ensure continued operation of the homeshare or vacation rental in compliance with the provisions of this Article and

other applicable building and zoning codes and regulations regarding parking, access, fire, safety, and other relevant issues.

2. Inspection, Monitoring ~~And~~and Code Enforcement Costs.

City monitoring shall be required for each homeshare and vacation rental operation issued a permit. The permittee shall be responsible for all inspection and monitoring costs associated with the operation. Monitoring may be conducted by a third party compliance company hired by the City. The permittee shall also be responsible for any and all code enforcement costs, calculated at a full cost recovery rate, related to their property.

(P) Permit Fees

The Community Development Department shall assess fees for a short-term rental permit, as set by the City Council. Fees and deposits set forth in this Article may be adjusted each year by the City Council, reflecting the costs of administering the short-term rental permit, and enforcing the requirements of this Section.

(Q) Complaints ~~And~~and Violations.

1. Complaints.

a. Complaints regarding the condition, operation or conduct of the renters, occupants or visitors of a homeshare or vacation rental shall be directed to the vacation rental property manager or homeshare owner for investigation and resolution. The property manager or owner shall be available by phone at all times the dwelling is rented out as a homeshare or vacation rental.

b. Upon receipt of a complaint that any renter, occupant or visitor of a homeshare or vacation rental has created unreasonable noise or disturbance and/or potentially violated any other operational standard of this Article the property manager or owner shall take all necessary actions to promptly resolve the issue, including by initially contacting the renter to correct the problem within thirty minutes, or within fifteen minutes during the quiet hours between 10:00 p.m. and 7:00 a.m., after the complaint is first received.

c. Within twenty-four hours after first receiving a complaint pursuant to subsection (b) above, the property manager or owner shall complete the online reporting form provided by the Community Development Director or designee to: (1) report and describe the complaint, including the time the complaint was first received; (2) describe all actions taken to resolve the issue, including the time each action was taken; and (3) describe the resolution or current status.

d. A property manager's or owner's failure to promptly resolve a complaint pursuant to subsection (b) above which the Planning Division deems to be valid, or to timely and fully report the complaint to the Community Development Director or designee on the online reporting form, shall each constitute a separate violation of this Article.

e. Individuals who file false reports of nuisance activities or other violations of this ordinance shall be subject to fine and prosecution pursuant to California Penal Code Section 148.5 and the complainant will be responsible for the costs associated with the service call by the Police Department or Code Enforcement.

2. Violations**.**

Each of the following acts or omissions related to the operation or use of a homeshare or vacation rental is unlawful and constitutes a violation of this Article. Owners are jointly and severally responsible and liable, along with any other responsible person, for each violation committed with respect to their homeshare or vacation rental. Each day a violation occurs constitutes a separate, additional violation:

a. Engaging in an act in violation of the permitting requirement of Subsection (F);

b. Failure to comply with an operational standard of Subsection (M);

c. Failure to comply with a property management requirement of Subsection (N);

d. Failure to comply with the complaint investigation, resolution and/or reporting requirements of Subsection (Q)(1); and

e. Failure to timely remit to the City any cost or fee pursuant to this Article

(R) Revocation or Suspension of Permit.

1. The Community Development Director may revoke, or suspend a vacation rental or homeshare permit for one or more of the following reasons:

a. A property transfer triggering property tax reassessment pursuant to the California Revenue and Taxation Code Section 60 et seq., as determined by the Ventura County Assessor such that the vacation rental or homeshare permit associated with the property shall expire and shall also become nonrenewable at the time of the property transfer.

b. The permittee has made a false, misleading or fraudulent statement of material fact in the application for the vacation rental or homeshare permit, in the information required to be submitted to the city, or in response to inquiries by the city.

c. The permittee engaged in any of the following conduct related to this section that:

(1) Resulted in a citation or conviction against the permittee;
(2) Violated local, state or federal law;
(3) Constituted a public nuisance;
(4) Breached any condition, requirement, or restriction of the vacation rental or homeshare permit; or
(5) Constituted a hazard to public peace, health, or safety.

d. Failure to pass inspections required under the provisions of Subsection (J).

e. Three or more verified and valid complaints of any violation of the Oxnard City Code, state or federal law, as determined by the Community Development Director, within a twelve-month period, shall be grounds for permit revocation.

2. A Vacation Rental ~~Or~~or Homeshare Permit ~~May Be Revoked, Suspended, Or Additional~~may be revoked, suspended, or additional conditions may be imposed by the Community Development Director by providing written notice to the permittee setting forth the basis of the intended action and giving the permittee an opportunity, within fourteen calendar days, to present responding information to the department of planning and community development.

3. After the fourteen-day period, the Community Development Director shall determine whether to revoke the permit, suspend the permit, or impose additional conditions upon the permit and thereafter, give written notice of its decision to the permittee. The permit shall be deemed to be valid until the written notice of the decision has been issued.

(S) Violations Declared A Public Nuisance.

Each and every violation of the provisions of this Article is hereby deemed unlawful and a public nuisance.

(T) Each Violation a Separate Offense.

Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Oxnard. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Oxnard may also pursue any and all remedies and actions available and

applicable under state and local laws for any violations committed by the person/s or entity to which the STR permit was issued and by tenants under contract to use the STR. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a STR permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).

(U) Criminal Penalties.

Each and every violation of the provisions of this Article may at the discretion of the District Attorney or City Attorney be prosecuted as an infraction or misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) for the first violation, two thousand dollars ($2,000) for the second violation, and three thousand dollars ($3,000) and revocation of the permit for a period of two years after which the property owner would have to reapply for the third violation each day a violation is committed or permitted to continue shall constitute a separate offense. The fine for operating an unlicensed and/or unpermitted STR shall be $5,000 per day.

(V) Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

(W) Appeals.

A property owner or duly appointed designee may appeal a decision of the Community Development Director to deny, revoke, or suspend a short-term rental permit pursuant to Chapter 1, Article V-Administrative Hearings of the Oxnard City Code."

Section 11. 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.~~12. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section ~~14.~~13. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption 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 ~~September~~December 3, 2019, was adopted on December ___, 2019 to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of ___, 2019 by the following vote:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE OXNARD CITY CODE REGARDING SHORT-TERM RENTAL UNITS BY ADDING CHAPTER 16, ARTICLE XI AND AMENDING CHAPTER 16, ARTICLE III, DIVISION 2 BY ADDING SUBSECTION (19) TO SECTION 16-21 (B) TO THE RESIDENTIAL SINGLE-FAMILY ZONE, AND AMENDING CHAPTER 16, ARTICLE III, DIVISION 10, SECTION 16-148, TABLE 16-148 OF THE DOWNTOWN CODE, ADDING SHORT-TERM RENTALS AS AN ALLOWED, BY RIGHT RESIDENTIAL USE IN THE DT-E, DT-G AND DT-C ZONES.

WHEREAS, the City of Oxnard intends to adopt regulations on Homestays and Short-Term Rental Units ("STRs"); and

WHEREAS, on March 2016, the City conducted an online community survey that contained a series of questions designed to receive public input on STRs; and

WHEREAS, on August 16, 2016, staff held a duly noticed public Community Workshop to summarize the March survey results and secure feedback from the community on specific STR related regulations and questions; and

WHEREAS, on November 3, 2016, the Planning Commission of the City of Oxnard (the "Planning Commission") held a duly noticed study session to receive input on specific STR regulations; and

WHEREAS, on June 1, 2017, the Planning Commission conducted a duly noticed public hearing and specifically addressed STRs, questions raised at the November 3, 2016 meeting, and the STR processing guidelines; and

WHEREAS, on February 26, 2019, the City Council's Housing and Economic Development Committee (HEDC) held a duly noticed meeting to discuss policy questions and provide comments and the STR ordinances; and

WHEREAS, on July 9, 2019, the HEDC held a duly noticed meeting to discuss the draft ordinance with a focus on proposed changes to the ordinance; and

WHEREAS, on March 25, 2019, City Council held a duly noticed special meeting and received public input and provided direction to staff regarding the STR ordinances; and

WHEREAS, on August 1, 2019, the Planning Commission held a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-04 (hereafter, the "Zone Text Amendment") regarding the adoption of specific rules and regulations for short term rentals within the Oxnard City Code; and

WHEREAS, after considering all the evidence in the record, including (but not limited to) the staff report (including the attachments), written submittals and public testimony, the

Planning Commission adopted a resolution recommending that the City Council of the City of Oxnard (the "City Council") adopt the Zone Text Amendment; and

WHEREAS, on September 24, 2019, the HEDC held a duly noticed meeting to receive a summary report on the Planning Commission recommendations and provided input on the recommendations; and

WHEREAS, on November 5, 2019, the City Council held a duly noticed public hearing to consider the Zone Text Amendment; and

WHEREAS, at the public hearing, the City Council considered all the evidence in the record, including (but not limited to) the Planning Commission Resolution, the staff report (including the attachments), written submittals and public testimony before making a final decision on November 5, 2019 regarding the regulation of short-term rentals; and

WHEREAS, in accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), the City Council has determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations; and

WHEREAS, the City Council authorizes the granting of a temporary STR permit for homeowners that were operating an STR in Oxnard prior to March 25, 2019. The permit must be applied for within 60 days of the effective date of this ordinance, is good for one year and shall not be automatically renewed.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. In view of all the evidence in the record and based on the foregoing findings, the City Council hereby approves the Zone Text Amendment.

Section 2. Chapter 16, Article III, Division 2, Subsection (B) of Section 16-21 of the Oxnard City Code relating to the R-1, Residential Single Family zone is hereby amended to read as follows:

"(19) Short-term rentals consistent with Article XI."

Section 3. Chapter 16, Article III, Division 10, Section 16-148.1 (A) of the Downtown Code is hereby amended to add Short-term Rentals as a Permitted Use in the Allowed Uses Table 16-148 for the following downtown zones: DT-E, DT-G and DT-C.

Section 4. Article XI is hereby added to Chapter 16 of the Oxnard City Code to read as follows:

"ARTICLE XI –SHORT-TERM RENTAL UNITS

SEC. 16-660. PURPOSE AND INTENT.

The purposes of short-term rental unit regulations are to establish standards and requirements for the temporary rental of dwellings as accessory uses in order to: (1) ensure that the use of dwellings as short-term rental units does not adversely impact long-term housing opportunities in the City of Oxnard; (2) ensure that short-term rental units are compatible with surrounding land uses; and (3) protect the health, safety and welfare of the short-term rental units' renters, occupants, neighboring residents, as well as the general public and environment.

SEC. 16-661. DEFINITIONS.

When used in this Article, the following words shall have the meanings ascribed to them as set forth herein.

Homeshare – A dwelling which is the primary residence of an owner who possesses at least a twenty percent ownership interest in the subject parcel, with any portion of the dwelling rented for a period less than thirty consecutive days when said owner is physically present in the same dwelling, with no meals or food provided to the renter or renters. A homeshare is not considered a home occupation. Use of a dwelling for occasional home exchange is not considered a homeshare.

Owner – A person with a full or partial fee title ownership interest in the subject property. For a property held in a trust, each trustee (but no trust beneficiary) is considered an owner.

Primary Residence – A dwelling which is the owner's main living location as evidenced by the owner's address-of-record for official documents such as the property's title, income tax returns, voter registration, or a current property tax bill.

Rent – The terms rent, rented and rental mean allowing use of a dwelling or property, or any portion thereof, in exchange for consideration in any form.

Short-term Rental - The rental of a residential unit for a period of less than thirty (30) consecutive calendar days. Short-term rentals include both homeshares and vacation rentals.

Vacation Rental – A dwelling, any portion of which is rented for a period less than thirty consecutive days when the owner is not physically present, with no meals or food provided to the renter or renters. A vacation rental is not considered a home occupation under this Article. Use of a dwelling for occasional home exchange is not considered a vacation rental.

SEC. 16-662. VACATION RENTAL PERMIT CAP, SEPARATION REQUIREMENT AND MAXIMUM RENTAL PERIOD.

(A) The number of vacation rental permits shall be limited by a 5% cap per General Plan neighborhood as established in the City of Oxnard Neighborhood Map adopted as Figure 3-4 in the 2030 General Plan or its successor document.

(B) No Vacation Rental shall be issued a permit when a Vacation Rental permit has already been issued on another property within ~~100~~200 feet of the proposed Vacation Rental. The ~~100~~200 feet is to be measured horizontally from the lines of property ownership as established by the legal description for the property on record with the County of Ventura. Notwithstanding any language in this Subsection B to the contrary, the 200-foot separation requirement shall not apply to a dwelling unit within a development:

1. That is subject to the Vacation Ownership and Time-share Act of 2004 (Business and Professions Code Section 11210 et seq.); and

2. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

(C) Vacation rentals shall be limited to a maximum of 100-day annual cap per calendar year. Vacation rentals which are only used for a partial day (i.e. arrival and departure days) shall be rounded up and counted as a full day. Notwithstanding any language in this Subsection C to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development:

1. That is subject to the Vacation Ownership and Time-share Act of 2004; and

2. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

SEC. 16-663. PERMIT REQUIRED.

(A) Except as expressly authorized by this Article, no dwelling, property or any portion thereof shall be rented for a term of less than thirty consecutive days. Renting for less than thirty days pursuant to a purported longer-term lease or by other means intended to evade compliance with this Article is prohibited.

(B) A valid permit issued by the City pursuant to this Article is required in order for any person that seeks or receives any rent, payment, fee, commission or compensation in any form, to rent, offer for rent, advertise for rent, or facilitate the rental of a homeshare or vacation rental. For purposes of this Article, the owner of a dwelling unit that is subject to the Vacation Ownership and Time-share Act of 2004 must obtain a valid permit issued by the City pursuant to this Article for the rental of the dwelling unit for non-timeshare purposes for a period of less than thirty days.

(C) A short-term rental permit authorizing a vacation rental or homestay shall be issued or renewed by the Community Development Director, or designee if the following minimum findings are met.

(1) The property is compliant with all State and Local codes.
(2) The property complies with the requirements in this Article.
(3) There is no substantial evidence of nuisance behavior from the location.
(4) Issuance of the permit will not exceed the neighborhood cap pursuant to Section 16-662.

(D) The Community Development Director shall have the authority to impose additional standards and/or conditions to short-term rental permits as necessary to achieve the objectives of the Article.

SEC. 16-663.1. LIMITED TERM.

(A) Permits for short-term rentals shall be issued or renewed for a maximum term of one year. All permits shall contain the following provision: "This permit shall expire no later than one year after the date of issuance, and is subject to revocation for violation or noncompliance with the requirements or any other applicable provision of the Oxnard City Code."

(B) Permit holders that remain in good standing and apply for a renewal permit prior to the expiration of their current permit will be granted a renewal permit. If a permit expires, the request for a permit would be treated as a new permit subject to any established waiting list.

SEC. 16-663.2. OWNER REQUIREMENTS AND LIMITATIONS.

(A) Permits may only be issued to the owner(s) of the homeshare or vacation rental property, and shall automatically expire upon sale or transfer of ownership of the property, in whole or in part. All permits shall include the following provision: "This permit shall automatically expire upon sale or transfer of the property, in whole or in part, or as stated in Section 16-663.1 whichever comes first."

(B) A permit may only be issued for a homeshare or vacation rental property if no owner of the subject homeshare or vacation rental property is also the owner of another homeshare or vacation rental property that is currently permitted under this Article. In addition, if a property contains multiple dwelling units (e.g., a duplex, cottages or apartments), only one dwelling unit on the property is eligible for permitting as a homeshare or vacation rental under this Article. An Accessory Dwelling Unit cannot be used as a short-term rental.

SEC. 16-663.4. INELIGIBLE DWELLINGS, STRUCTURES AND SPACES.

No permit for a homeshare or vacation rental shall be issued for any of the following:

(A) A dwelling subject to a City-imposed covenant, condition or agreement restricting its use to a specific purpose including but not limited to an affordable housing unit, farmworker housing, a superintendent or caretaker dwelling.

(B) A dwelling on property fully or partially owned by a corporation, partnership, limited liability company, or other legal entity that is not a natural person, except in the event every shareholder, partner or member of the legal entity is a natural person as established by documentation (which shall be public record) provided by the permit applicant. In the event this exception applies, every such natural person shall be deemed a separate owner of the subject dwelling and property for purposes of this Article.

(C) A dwelling on property owned by six or more owners, unless each owner shares common ancestors.

(D) A dwelling or structure that has not, if legally required, obtained a full building final inspection or been issued a valid certificate of occupancy by the City Building Official

(E) A mobile home located in a mobile home park.

(F) Space in a yard or on a balcony. Camping in a backyard or on a balcony as a form of STR is prohibited.

(G) A vehicle, to include an RV, car or boat. Use of a vehicle as a form of STR is prohibited.

(H) An Accessory Dwelling Unit.

SEC. 16-664. PRE-PERMITTING INSPECTION.

Prior to the initial issuance of a permit under this Article, the City Building Official or designee shall conduct an inspection to determine the number of bedrooms within the unit and ensure the dwelling and site comply with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, and other relevant health and safety standards. If any violation is identified during the inspection, no permit shall be issued under this Article until the violation(s) is abated.

SEC. 16-665. PERMIT APPLICATION, PROCESSING AND FEES.

(A) Applications for the initial issuance and renewal of permits under this Article shall meet the form and content requirements as established by the Community Development Director or designee.

(B) Each application shall include a floor plan showing all rooms with each room labeled as to room type and a site plan depicting the location of all on-site parking and existing structures and describing the use of all existing structures.

(C) Each application shall include a nuisance response plan containing the information required by Sec. 16-666.

(D) Each application shall include a mailing list for notifications pursuant to Sec. 16-668.2 (B) along with fees as set forth in the Planning Division fee schedule.

(E) Each application shall include an affidavit in a form provided by the Community Development Director or designee, signed by each owner of the subject property, agreeing to comply with the operational standards of Sec. 16-667 and the property management requirements of Sec. 16-668 should the permit be issued. The affidavit form shall also include the following statement: "The City considers the short-term rental of dwellings to be businesses that are operated in residential zones. Short-term rentals are not a by-right use. Instead, they are only allowed if operated in strict compliance with the rules and requirements of Chapter 16, Article XI of the Oxnard City Code. Violations are grounds for permit revocation, fines, and/or criminal prosecution."

(F) For a homeshare only, annually provide to the Planning Division proof of a homeowner's exemption from the County Assessor and a fully-executed statement that the property is owner occupied.

(G) An annual permit fee authorized by the fee schedule applicable to the Planning Division may be collected upon the filing of an application to cover the City's costs of administering this Article.

(H) Prior to permit issuance under this Article, the applicant shall: (i) pay all applicable City fees; (ii) provide contact information for the owner of a homeshare, or designate and provide contact information for one or two property managers of a vacation rental, pursuant to Sec.16-668.1 (C); (iii) provide a fully-executed affidavit pursuant to Sec. 16-665 (E); (iv) provide proof of compliance with the applicable business tax and licensing, and transient occupancy tax, requirements pursuant to Sec. 16-668.6; (v) for a homeshare only, proof of homeowner's exemption and statement that property is owner occupied pursuant to Sec. 16-665 (F); (vi) provide proof of insurance pursuant to Sec. 16-668.7; and (vii) provide the fully-executed defense and indemnification agreement pursuant to Sec.16-668.8.

(I) Notwithstanding any other provision of this Article, no public hearing shall be conducted regarding permit applications under this Article. Decisions of the Community Development Director or designee on permit applications to approve a short-term rental permit are final when rendered and are not subject to appeal.

SEC. 16-666. NUISANCE RESPONSE PLAN

Each nuisance response plan accompanying a vacation rental application shall contain the following information and otherwise be in a form required by the Community Development Department.

(A) The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a vacation rental pursuant to the permit;

(B) The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the vacation rental by tenants, their visitors and/or their guests. For the purposes of this Article, a return telephone call to a complainant shall be deemed "prompt" when:

(1) Between the hours of 7:01 a.m. and 9:59 p.m. the call to contact the renter to correct the problem is made within thirty minutes of receiving the initial complaint;
(2) Between 10:00 p.m. and 7:00 a.m., the quiet hours, the call to contact the renter to correct the problem is made within fifteen minutes of receiving the initial complaint.

(C) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and

(D) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

(E) The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

(F) The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this Article "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.

SEC. 16-667. OPERATIONAL STANDARDS

The following minimum operational standards specified shall apply to all homeshares and vacation rentals. All owners, renters, occupants and visitors of homeshares and vacation rentals shall comply with the operational standards. The owner(s) and permittee(s) of homeshares and vacation rentals are ultimately responsible for ensuring compliance with, and are liable for violations of, these operational standards.

SEC 16-667.1. LIMITS ON DURATION OF STAY

Vacation rental units may be rented for no more than 100 days during any calendar year. Notwithstanding any language in this Section to the contrary, the 100-day annual cap per calendar year shall not apply to a dwelling unit within a development:

1. That is subject to the Vacation Ownership and Time-share Act of 2004; and

2. That became subject to the Vacation Ownership and Time-share Act of 2004 on or before January 1, 2019.

SEC. 16-667.2. OCCUPANCY LIMITS.

(A) Vacation rental overnight occupancy shall be limited to a maximum of two persons per bedroom occupying up to five bedrooms, plus two additional persons, up to a maximum of ten persons.

(B) Homeshares shall have a maximum of two bedrooms available for rental. Overnight occupancy shall be limited to a maximum of five rental guests.

(C) Inclusive of the owner(s) in the case of homeshares, the maximum number of total persons allowed on the property at any time shall not exceed the maximum overnight occupancy plus six additional persons. No person who is not staying overnight at the homeshare or vacation rental shall be on the property during the quiet hours stated in Sec.16-667.4 (B).

(D) Homeshares and vacation rentals shall not be rented to more than one group at a time; no more than one rental agreement shall be effective for any given date.

(E) The primary occupant of a vacation rental shall be an adult 21 years of age or older. The primary occupant shall be legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Article and/or this code.

SEC. 16-667.3. PARKING REQUIREMENTS.

(A) Parking shall be provided on the property as follows:
(1) a minimum of one parking space for vacation rentals in a studio or one bedroom;
(2) a minimum of two parking spaces for homeshares and vacation rentals with two to four bedrooms; and
(3) a minimum of three parking spaces for homeshares and vacation rentals with five or more bedrooms.

(B) Permitted garages and driveways on the property shall be unobstructed and made available for renter parking.

SEC. 16-667.4. NOISE.

(A) No use or activity associated with a homeshare or vacation rental shall at any time create unreasonable noise or disturbance as provided in Chapter 7, Article XI – Sound Regulations of the Oxnard City Code.

(B) Quiet hours shall be observed from 10:00 p.m. to 7:00 a.m.

~~No outdoor amplified music/sound shall be allowed during quiet hours when a property is being rented as a homeshare or vacation rental.~~

(C) Pursuant to OCC Section 7-147.1 the sale, offer to sell, use, or possession of fireworks is prohibited in the City of Oxnard and use by a tenant or guest of an STR is also a violation of this Article.

SEC. 16-667.5. EVENTS AND ACTIVITIES.

No homeshare or vacation rental property shall be rented or used for any event or activity attended by more persons than are allowed on the property pursuant to Sec.16-666.2, that violates any noise standard of Sec.16-666.4, or that violates any other standard or requirement of this Article or any other local, state or federal law.

SEC. 16-667.6. REFUSE.

Adequate waste collection facilities and services shall be provided for a homeshare or vacation rental at all times. Waste bins and refuse shall not be left within public view, except in proper containers for the purpose of collection on the scheduled collection day(s). The waste collection schedule and information about recycling and green waste separation and disposal shall be included in the rental agreement and posted conspicuously inside the rental unit.

SEC. 16-668. PROPERTY MANAGEMENT REQUIREMENTS.

The minimum property management requirements apply to all homeshares and vacation rentals.

SEC. 16-668.1. OWNER/PROPERTY MANAGER REQUIREMENTS.

(A) At all times a homeshare is rented out, a homeshare owner shall be onsite between the hours of 10:00 p.m. and 7:00 a.m., and within twenty-five miles of the property at all other times, to ensure compliance with the standards and requirements of this Article.

(B) At all times a vacation rental is rented out, the vacation rental shall have one or two designated property managers, one of whom shall be available at all times and within twenty-five miles of the property, to ensure compliance with the standards and requirements of this Article. An owner may serve as one of the property managers.

(C) Each application under this Article shall include the name, address, and telephone number(s) at which the property manager(s) can be reached at all times, along with the signature of each property manager. Any requested change to a designated property manager shall be made through a formal written request to the Community Development Director or designee, and shall include the signature of the proposed property manager and the desired effective date of the change. No change to a vacation rental's designated property manager shall take effect unless and until approved in writing by the Community Development Director or designee.

SEC. 16-668.2. PERMIT NOTIFICATION.

(A) The Planning Division shall provide a mailed notice of permit issuance, and of each permit renewal, to the owner of the subject property and the owners of all real property situated within a radius of 300 feet of the exterior boundaries of the Assessor's Parcel(s) which is the subject of the application.

(B) At a minimum, the notice of permit issuance shall include: (i) directions to view a copy of the nuisance response plan; and (ii) contact information for the Code Compliance Division.

SEC. 16-668.3. INFORMATION IN RENTAL AGREEMENTS

Each rental agreement for a vacation rental or homeshare shall prominently display the following information:

(A) The permitted occupancy and guest limits for both day and night;

(B) Notification that quiet hours shall be observed between 10:00 p.m. and 7:00 a.m.;

(C) Notification that no outdoor amplified music or sound is allowed during quiet hours and a copy of Chapter 7, Article XI – Sound Regulations of the Oxnard City Code as may be amended from time to time;

(D) Notification that the property cannot be used for events that exceed the applicable occupancy or guest limits, or that violate the quiet hours, noise standards or any other standard or requirement of this Article;

(E) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed;

(F) The waste collection schedule and the tenant’s responsibilities regarding waste collection.

(G) Notification that the sale, possession or use of fireworks in the City of Oxnard is prohibited.

SEC. 16-668.4 INFORMATION IN ADVERTISEMENTS AND LISTINGS

(A) Each advertisement and listing for a vacation rental or homeshare shall prominently display the following information:

(1) The City-issued land use permit number authorizing the homeshare or vacation rental under this Article;

(2) The current City issued Business License Tax Certificate identification number, if required for the operation.

(3) All advertisements for homeshares shall state that the unit is an owner-occupied dwelling, and the owner will be present in the home.

(4) The available number of onsite parking spaces, and notification that all parking shall occur on-site with no on-street parking allowed.

(B) No advertisements or notices regarding the availability of a dwelling for homeshare or vacation rental use shall be posted on the property.

SEC. 16-668.5. POSTING INSIDE OF DWELLINGS.

The following information, as well as all information required by Sec.16-667.4, shall be posted in a conspicuous location inside the dwelling within six feet of the main entrance of the homeshare or vacation rental:

(A) The name and contact information for the designated property manager of a vacation rental or owner of a homeshare, and the telephone number(s) at which the person can be reached at all times;

(B) The waste collection schedule and information about recycling and green waste separation and disposal;

(C) Notification that the property owner, renter, and occupants are subject to criminal citation and fines, civil penalties and/or permit revocation for violations of the unit's occupancy limits, noise standards and other operational standards.

SEC. 16-668.6. BUSINESS LICENSE; BUSINESS TAXES; TRANSIENT OCCUPANCY TAX.

The owner of a vacation rental or homeshare shall acquire and maintain a valid City business license, timely pay annual business taxes evidenced by a business tax certificate, and obtain and maintain a valid City transient occupancy tax registration certificate and timely pay all required City transient occupancy taxes.

SEC. 16-668.7. INSURANCE.

The owner shall maintain an insurance policy that includes coverage for commercial/business general liability with a minimum limit of $1,000,000 per occurrence for claims of personal injury or property damage. Proof of such insurance coverage shall be provided with each permit application under this Article, and shall be made available to the Community Development Director or designee upon request.

SEC. 16-668.8. DEFENSE AND INDEMNIFICATION.

All owners of a homeshare or vacation rental shall be jointly and severally responsible to defend and indemnify the City and all of its officials, employees and agents from and against all third-party claims, causes of actions, fines, damages and liabilities of whatever nature arising from or related to the processing and issuance of a permit under this Article and/or from the operation of the homeshare or vacation rental. Upon submittal of a permit application under this Article, all owners of the homeshare or vacation rental shall execute a written agreement on a form provided by the Community Development Director or designee implementing this defense and indemnification requirement.

SEC. 16-668.9. RECORD-KEEPING.

The owner of a homeshare or vacation rental shall keep and preserve all records as may be necessary to demonstrate compliance with the standards and requirements of this Article. These records shall include but are not limited to all rental agreements entered into, advertisements and online listings. The records shall be maintained during the term of the permit issued under this Article and subsequent renewal up to three years, and shall be made available in electronic format for the City's review upon request of the Community Development Director or designee.

SEC. 16-669. INSPECTION AND MONITORING.

SEC. 16-669.1. INSPECTIONS.

In addition to the pre-permitting inspection of a homeshare or vacation rental pursuant to Sec.16-664, upon reasonable advanced notice, City staff shall be given access to the dwelling and site to conduct an inspection during the term of the permit to ensure continued operation of the homeshare or vacation rental in compliance with the provisions of this Article and other applicable building and zoning codes and regulations regarding parking, access, fire, safety, and other relevant issues.

SEC. 16-669.2. INSPECTION, MONITORING AND CODE ENFORCEMENT COSTS.

City monitoring shall be required for each homeshare and vacation rental operation issued a permit. The permittee shall be responsible for all inspection and monitoring costs associated with the operation. Monitoring may be conducted by a third party compliance company hired by the City. The permittee shall also be responsible for any and all code enforcement costs, calculated at a full cost recovery rate, related to their property.

SEC. 16-670. PERMIT FEES

The Community Development Department shall assess fees for a short-term rental permit, as set by the City Council. Fees and deposits set forth in this Article may be adjusted each year by the City Council, reflecting the costs of administering the short-term rental permit, and enforcing the requirements of this Article.

SEC. 16-671. COMPLAINTS AND VIOLATIONS.

SEC. 16-671.1. COMPLAINTS.

(A) Complaints regarding the condition, operation or conduct of the renters, occupants or visitors of a homeshare or vacation rental shall be directed to the vacation rental property manager or homeshare owner for investigation and resolution. The property manager or owner shall be available by phone at all times the dwelling is rented out as a homeshare or vacation rental.

(B) Upon receipt of a complaint that any renter, occupant or visitor of a homeshare or vacation rental has created unreasonable noise or disturbance and/or potentially violated any other operational standard of this Article the property manager or owner shall take all necessary actions to promptly resolve the issue, including by initially contacting the renter to correct the problem within thirty minutes, or within fifteen minutes during the quiet hours between 10:00 p.m. and 7:00 a.m., after the complaint is first received.

(C) Within twenty-four hours after first receiving a complaint pursuant to subsection (B) above, the property manager or owner shall complete the online reporting form provided by the Community Development Director or designee to: (1) report and describe the complaint, including the time the complaint was first received; (2) describe all actions taken to resolve the issue, including the time each action was taken; and (3) describe the resolution or current status.

(D) A property manager's or owner's failure to promptly resolve a complaint pursuant to subsection (B) above which the Planning Division deems to be valid, or to timely and fully report the complaint to the Community Development Director or designee on the online reporting form, shall each constitute a separate violation of this Article.

(E) Individuals who file false reports of nuisance activities or other violations of this ordinance shall be subject to fine and prosecution pursuant to California Penal Code Section 148.5 and the complainant will be responsible for the costs associated with the service call by the Police Department or Code Enforcement.

SEC. 16-671.2. VIOLATIONS.

Each of the following acts or omissions related to the operation or use of a homeshare or vacation rental is unlawful and constitutes a violation of this Article. Owners are jointly and severally responsible and liable, along with any other responsible person, for each violation committed with respect to their homeshare or vacation rental. Each day a violation occurs constitutes a separate, additional violation:

(A) Engaging in an act in violation of the permitting requirement of Sec. 16-663 (A);

(B) Failure to comply with an operational standard of Sec. 16-667;

(C) Failure to comply with a property management requirement of Sec.16-668;

(D) Failure to comply with the complaint investigation, resolution and/or reporting requirements of Sec. 16-669.1; and

(E) Failure to timely remit to the City any cost or fee pursuant to this Article

SEC. 16-672. REVOCATION OR SUSPENSION OF PERMIT.

(A) The Community Development Director may revoke, or suspend a vacation rental or homeshare permit for one or more of the following reasons:

(1) A property transfer triggering property tax reassessment pursuant to the California Revenue and Taxation Code Section 60 et seq., as determined by the Ventura County Assessor such that the vacation rental or homeshare permit associated with the property shall expire and shall also become nonrenewable at the time of the property transfer.
(2) The permittee has made a false, misleading or fraudulent statement of material fact in the application for the vacation rental or homeshare permit, in the information required to be submitted to the city, or in response to inquiries by the city.
(3) The permittee engaged in any of the following conduct related to this Article that:
    (a) Resulted in a citation or conviction against the permittee;
    (b) Violated local, state or federal law;
    (c) Constituted a public nuisance;
    (d) Breached any condition, requirement, or restriction of the vacation rental or homeshare permit; or
    (e) Constituted a hazard to public peace, health, or safety.
(4) Failure to pass inspections required under the provisions of Sec. 16-664.
(5) Three or more verified and valid complaints of any violation of the Oxnard City Code, state or federal law, as determined by the Community Development Director, within a twelve-month period, shall be grounds for permit revocation.

(B) A vacation rental or homeshare permit may be revoked, suspended, or additional conditions may be imposed by the Community Development Director by providing written notice to the permittee setting forth the basis of the intended action and giving the permittee an opportunity, within fourteen calendar days, to present responding information to the Community Development Department.

(C) After the fourteen-day period, the Community Development Director shall determine whether to revoke the permit, suspend the permit, or impose additional conditions upon the permit and thereafter, give written notice of its decision to the permittee. The permit shall be deemed to be valid until the written notice of the decision has been issued.

SEC 16-673. VIOLATIONS DECLARED A PUBLIC NUISANCE.

Each and every violation of the provisions of this Article is hereby deemed unlawful and a public nuisance.

SEC 16-674. EACH VIOLATION A SEPARATE OFFENSE.

Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Oxnard. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Oxnard may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the person/s or entity to which the STR permit was issued and by tenants under contract to use the STR. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a STR permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).

SEC. 16-675. CRIMINAL PENALTIES.

Each and every violation of the provisions of this Article may at the discretion of the District Attorney or City Attorney be prosecuted as an infraction or misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) for the first violation, two thousand dollars ($2,000) for the second violation, and three thousand dollars ($3,000) and revocation of the permit for a period of two years after which the property owner would have to reapply for the third violation. Each day a violation is committed or permitted to continue shall constitute a separate offense. The fine for operating an unlicensed and/or unpermitted STR shall be $5,000 per day.

SEC. 16-676. REMEDIES CUMULATIVE AND NOT EXCLUSIVE.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SEC. 16-677. APPEALS.

A property owner may appeal a decision of the Community Development Director to deny, revoke, or suspend a short-term rental permit pursuant to Chapter 1, Article V-Administrative Hearings of the Oxnard City Code."

Section 5. 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 decisions 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 6. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 7. The City Clerk shall certify to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) calendar days of the adoption and shall post a certified copy of this ordinance, include the vote for and against the same, in the office of the City Clerk in accordance with Government Code Section 36933. Ordinance No.___ was first read on _____, 2019, finally adopted on _____,2019, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of ___, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Tim Flynn, Mayor

ATTEST:

By_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

By_____
Stephen M. Fischer, City Attorney

OXNARD PLANNING DIVISION
214 SOUTH C STREET
OXNARD, CALIFORNIA 93030

CITY OF OXNARD CALIFORNIA

NOTICE OF EXEMPTION

Project Description:
PZ 19-580-04 (ZONE TEXT AMENDMENT) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE OXNARD CITY CODE REGARDING SHORT-TERM RENTAL UNITS BY ADDING CHAPTER 16, ARTICLE XI AND AMENDING CHAPTER 16, ARTICLE III, DIVISION 2 BY ADDING SUBSECTION (19) TO SECTION 16-21 (B) TO THE RESIDENTIAL SINGLE-FAMILY ZONE, AND AMENDING CHAPTER 16, ARTICLE III, DIVISION 10, SECTION 16-148, TABLE 16-148 OF THE DOWNTOWN CODE, ADDING SHORT-TERM RENTALS AS AN ALLOWED, BY RIGHT RESIDENTIAL USE IN THE DT-E, DT-G AND DT-C ZONES; AND ADDING CHAPTER 17, ARTICLE IV, SECTION 17-53, AND AMENDING CHAPTER 17, ARTICLE II ADDING SUBSECTION (B) (10) TO SECTION 17-10. R-B-1, SINGLE-FAMILY BEACH, SUB-ZONE; SECTION 17-11. R-W-1, SINGLE-FAMILY WATER-ORIENTED, SUB-ZONE; SECTION 17-12. R-W-2, TOWNHOUSE WATER-ORIENTED, SUB-ZONE; SECTION 17-13. R-2-C, COASTAL MULTIPLE-FAMILY, SUB-ZONE; SECTION 17-14. R-3-C, COASTAL MEDIUM DENSITY MULTIPLE-FAMILY, SUBZONE; ADDING SUBSECTION (B) (3) TO SECTION 17-15. CPC, COASTAL PLANNED COMMUNITY SUB-ZONE; AND ADDING SUBSECTION (B) (9) TO SECTION 17-25. R-BF, BEACHFRONT RESIDENTIAL SUB-ZONE REGARDING SHORT-TERM RENTAL UNITS; AND AMENDING OXNARD CITY CODE CHAPTER 7, ARTICLE III, SECTION 7-56 TO ESTABLISH FINES FOR VIOLATION OF SHORT TERM RENTAL REGULATIONS FILED BY THE OXNARD COMMUNITY DEVELOPMENT DEPARTMENT, 214 S. C ST. OXNARD, CA 93030.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

☐ Ministerial Project
☐ Categorical Exemption
☐ Statutory Exemption
☐ Emergency Project
☐ Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
☒ No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

Supporting Reasons: Short-term rentals are not currently an authorized use in the City of Oxnard but historically, dwellings have been used as short-term rentals for many years. In recent years the number of dwelling units being offered as short-term rentals has seen a significant increase. The impacts associated with the increase in short-term rentals such as noise complaints, trash, and parking have also been increasing. The zone text amendment

creates regulations to authorize short-term rentals of dwelling units and manages the associated impacts. The zone text amendment has no possibility of significantly affecting the environment as the use authorized by the zone text amendment is an existing, but unregulated use.

(Date)	Jeffrey Lambert Community Development Director

Short Term Rental Ordinance Chapter 7 (Nuisance), Chapter 16 (Zoning Code) and Chapter 17 (Coastal Zoning)

Jeffrey Lambert, Community Development Director
Paul McClaren, Associate Planner

City Council
December 3, 2019

CITY OF OXNARD CALIFORNIA

Purpose of Agenda Item

- Seek City Council approval of Ordinances that would regulate Short Term Vacation Rentals (STRs) in the City of Oxnard consistent with the recommendations of the City Council.

2

Summary of Key Ordinance changes from the November 5th City Council Meeting

1. Increase separation from 100-foot to a 200-foot separation between STRs;
2. Remove prohibition on outdoor amplified music during quiet hours and rely on existing sound regulations (Chapter 7, Article XI);
3. Prohibit STRs in the Colony (440 units) and Harbour Island (129 units) HOAs; and
4. Exempt timeshare properties from the 200' separation requirement and from the 100-day annual cap.

3

The Colony and Harbor Island

4

Recommendation

That the City Council:

Introduce by title only and waive further reading of the following Ordinances by title only approving the following amendments to Chapters 7 (Nuisances), 16 (Zoning Code) and 17 (Coastal Zoning) of the Oxnard City Code:

5

CITY OF OXNARD CALIFORNIA

Discussion

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS
AGENDA ITEM NO. L.3.

DATE: December 3, 2019

TO: City Council

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Appeal of Planning Commission Action of PZ 18-500-12, Special Use Permit Regarding Property Located at 2900 Saviers Road; Request for Continuance to Date Certain. (5/5/5)

RECOMMENDATION

That the City Council continue until February 4, 2020 the appeal hearing for Planning and Zoning Permit No. 18-500-12 (SUP) for property located at 2900 Saviers Road.

BACKGROUND

On September 19, 2019, the Planning Commission (the "Commission") held a public hearing to consider Planning & Zoning Permit No. 18-500-12 requesting approval of a Special Use Permit. The project scope involved demolition of an existing four story vacant office building and construction of a 3,000 square-foot convenience store with alcohol sales for off-site consumption as well as a new 12-pump fuel facility. The proposed project is located at 2900 Saviers Road. Staff presented the project with a recommendation for approval.

At the public hearing, the Commission heard public testimony, deliberated, and made a motion of intent to deny the project given that a resolution for denial was not available. The Planning Commission continued the project to October 17, 2019 at which meeting the Commission voted 4-0, with three Commissioners absent, to adopt a resolution to deny the project.

DISCUSSION

Pursuant to Sections 16-544 and 16-545 of the Oxnard City Code (the "OCC"), the action of the Planning Commision is final unless an appeal application to the City Council is filed within 18 days after the action date. On the last day of the appeal period (November 4, 2019), the Applicant filed an appeal application with the City (Attachment A).

On November 6, 2019, the Applicant submitted a request that the appeal hearing be continued for 60 days (Attachment B). This timeline places the hearing on the City Council meeting calendar for February 4, 2020. The City Council has the discretion to honor this request.

STRATEGIC PRIORITIES

This agenda item is routine operational item and does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item is a public hearing and was heard by the Planning Commission and presented to the Housing and Economic Development Committee.

Prepared by: Veronica Ortiz-De Anda, Contract Planner

ATTACHMENTS

1. Attchment A - Appeal_PZ 18-500-12, 2900 Saviers Road
2. Attachment B - BVO Continunance Letter

CITY OF OXNARD CALIFORNIA

REQUEST FOR APPEAL

Community Development Department

Use this form to request an appeal of a decision rendered on one of the following type of permits: Administrative Wireless Permit; Discretionary Development Permit decision rendered by the Community Development Director; or a Discretionary Development Permit decision rendered by the Planning Commission.

After paying the required appeal fee to the Planning Division, submit the original request for appeal and two (2) copies along with verification that the appropriate appeal fee has been paid to the City Clerk's Office. To determine your appeal fee go to: oxnard.org/planning and click on planning handouts and applications or contact the Planning Division at (805) 385-7858.

I, Greg Fick (Print name), am requesting an appeal of a decision made by City of Oxnard Planning Commission (State decision making body) that was made on October 17, 2019 (Date) regarding 18-500-12 (Specify PZ No.).

Check one of the following:

☐ **Appeal of a Decision Rendered on a Wireless Permit**. Pursuant to Section No. 16-488 (C) of the Oxnard City Code, I am submitting an appeal to the Secretary of the Planning Commission and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Planning Manager's decision on a wireless communications facility permit. I am requesting that this appeal be considered by the Planning Commission.

☐ **Appeal of a Decision Rendered on a Discretionary Permit - Community Development Director**. Pursuant to Section No. 16-525 (B) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Community Development Director's decision on a discretionary permit. I am requesting that this appeal be considered by the Planning Commission.

☑ **Appeal of a Decision Rendered on a Discretionary Permit - Planning Commission**. Pursuant to Section 16-545/17-58(J) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 18 days / 10 working days of the Planning Commission's decision on a discretionary permit. I am requesting that this appeal be considered by the City Council.

State the grounds, facts, and if known the code sections supporting your request: (Provide additional sheets if necessary)

See Attachment A.

RECEIVED
NOV 04 2019
CITY OF OXNARD
DEVELOPMENT SERVICES

X _____ Appellant Signature

11-1-19 Date

cc: City Attorney
Community Development Director
Project Planner
Applicant

OFFICE USE ONLY	
Date Received:	
Received By:	
Contacted Dept/Division Rep:	

ATTACHMENT A

APPEAL OF OXNARD PLANNING COMMISSION DECISION

PLANNING CASE NUMBER: PZ 18-500-12

BV Oxnard, LLC ("BVO") is owner of that certain parcel of real property commonly referred to as 2900 Saviers Road (the "Property") located in the City of Oxnard ("City"). The Property contains approximately 45,738 square feet of lot area. The Property is improved with a vacant multi-story building (the "Building"). The Building's ground floor (5,870 square feet) was most recently occupied with a bank. The Building's upper floors (21,580 square feet) were most recently occupied with office uses. BVO proposed to redevelop the Property with a new 3,000 square foot convenience store selling beer and wine for off-site consumption and a gas station (the "Project"). The Project would allow the existing 7-11 from 3280 Saviers Road (the "Existing Operation"), located less than a thousand feet away, to move to the Property. The Project is subject to approval of Special Use Permit Case No. PZ-18-500-12(SUP) (the "SUP"). The SUP application and various supporting documents was filed on September 6, 2018 and was processed by the Oxnard City Planning Department ("Planning Department"). Throughout the SUP process, there were concerns raised by various parties including the Planning Department and City residents. Gonzales Law Group ("GLG") submitted a letter dated July 25, 2019 that addressed all issues raised by the Planning Department and the residents (the "GLG Letter"). The GLG Letter is hereby incorporated by reference and attached as Exhibit 1.

On September 19, 2019, a hearing (the "Hearing") was held before the City's Planning Commission ("CPC") to consider the SUP. CPC's discretion for approving the SUP is narrow, and CPC repeatedly abused their discretion. Throughout the Hearing, CPC demonstrated their denial of the SUP was not based on substantial evidence, but their own personal disdain for the Project. At the Hearing CPC voted to deny the SUP, contrary to City Staff's recommendation. A resolution for denial was not before the CPC at the Hearing, therefore a subsequent hearing was held on October 17, 2019 to finalize the decision. On October 17, 2019, CPC considered the resolution to deny the Project (the "Resolution") and denied the SUP.[1] There was no substantial evidence provided at the Hearing or in the Resolution to justify denial of the Project. The decision was made arbitrarily and capriciously.

I. No Substantial Evidence Was Presented at the Hearing to Support the CPC Findings

In the City a special use permit is a conditional use permit by another name. The law surrounding discretionary action on conditional use permits is clear. The City's discretion in acting on a special use permit is narrow and a decision cannot be made arbitrarily or capriciously. Findings must be made by the quasi-judicial body as part of its determination of whether to grant or deny a conditional use permit, or in this case a

[1] A copy of the Resolution was delivered by email to Tait and Associates on October 25, 2019. The Resolution did not have a number and was unsigned.

special use permit.[2] The decision to approve or deny a special use permit, must be supported by findings of fact that are supported by substantial evidence in light of the entire record.[3] The CPC's findings directly contradict the evidence in light of the entire record.

II. The Findings Outlined in the Resolution Directly Contradict the Entirety of the Evidence in the Record.

The Resolution states that the project should be denied because findings could not be made for Oxnard Municipal Code (the "OMC") Section 16-531(A) for a special use permits and findings could not be made pursuant to City Council Resolution No. 11,896 for alcohol related uses.

a. Pursuant to OMC Section 16-531, in addition to consistency with the 2030 Oxnard General Plan ("General Plan"), the following findings were made in the Resolution to deny a special use permit: "(A) the nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare". The following are CPC's findings based on OMC Section 16-531(A) and the reasons they were made in error:

Section 1.1.A – The proposed Project would be materially detrimental to the public health, safety, or general welfare because the Project will adversely impact the existing baseline conditions which consists of an undue concentration of alcohol outlets in the immediate area; a high crime rate in the neighborhood; continuous problems of vagrancy at the existing store seeking to relocate to the Project site; and the potentially significant historic resource located on the project site.

All evidence submitted at the Hearing demonstrates that the Project would not be materially detrimental to the public health, safety or general welfare of the surrounding community. As demonstrated multiple times during the Hearing, the Existing Operation's issues are caused by its location, not the business.[4] The Existing Operation is one tenant in a larger structure. The Existing Operation's operator (the "Operator") has no control over the Existing Operation's building. Additionally, the Existing Operation is not subject to an SUP and therefore is not subject to any operational conditions.

Evidence at the hearing demonstrated that moving the Existing Operation to a single building would allow greater oversight and less problems. Moving the Existing Operation to the Property would also allow the City to exert control over the Project in the form of conditions. Oxnard Police Department ("OPD") representatives testified that

[2] Breakzone Billiards v. City of Torrance, 81 Cal. App. 4th 1205, 1244, 97 Cal. Rptr. 2d 467, 497 (2000)
[3] *Id.*
[4] Video of the Hearing can be accessed at https://oxnardca.civicclerk.com/Web/Player.aspx?id=271&key=-1&mod=-1&mk=-1&nov=0.Testimony from Sergeant Tim Kelley starts at approximately 1:04:30.

moving the Existing Operation to the Property would allow more oversight and be beneficial for safety purposes. Unfortunately, this reasoning was completely disregarded by the CPC in the deliberation, and absent in the findings.

It is also worth noting that the Existing Operation will be transferring their ABC license to the Property. A new license will not be added for purposes of the Project. The Property and the Existing Operation are located within the same census tract. Therefore, there will be no change in concentration of alcohol related businesses within the area. There is absolutely no evidence the Project will affect the baseline undue concentration of alcohol because the base line will not change.

> *Section 1.1.B – Data from the City Police Department provides information about the number of commercial establishments that sell alcohol in the Project vicinity, crime rate, and policing problems in the neighborhood. The report cites that within 1000 feet of the Project site, there are seven (7) alcohol outlets including the one proposing to relocate to the subject site. The 2017 crime rate in the area is 4.9 times higher than the average crime rate citywide and 1.6 times higher than the citywide commercial rate. There* [sic] *report also cites various problems with policing in the area including that the Applicant's existing store has continuous problems with loitering and panhandling by the homeless, which requires regular police patrol to address.*

All evidence presented at the Hearing demonstrates that closing the Existing Operation and relocating to the Property allows the City to exert control over the Project by imposing operational conditions. As mentioned above, this is because the Existing Operation is not subject to an SUP and therefore not subject to conditions. OPD prepared a report dated February 14, 2019 (the "OPD Report") for the potential SUP that states in its conclusion the following: "The applicant's proposal to close one store and replace it with another more modern and better designed establishment to address the concentration and crime concerns is reasonable".[5] Testimony by OPD Sergeant Tim Kelley at the Hearing demonstrated that moving the Existing Operation to the Property would be a "better situation" for the OPD.[6] During the Hearing Sergeant Tim Kelley also stated that the Property's current problems with homelessness and loitering stem from the vacant Building.[7] Sergeant Tim Kelley directly states that loitering is a problem with the Property because the Building is abandoned. Vice-Chair Chua responded to Sergeant Tim Kelley's expert opinion by stating his own opinion that loitering may still be a problem with the site if the Building was replaced with the Project.[8] Sergeant Tim Kelley ends his testimony stating that the Project would result in a "better situation" for OPD.[9] CPC ignored testimony by Sergeant Tim Kelley and OPD by finding the opposite of what the evidence supports. This evidence was neither considered in deliberation nor mentioned in the findings.

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[5] Oxnard Police Report dated February 14, 2019, Page 5.
[6] Hearing video at 1:04:30.
[7] *Id* at 1:07:00.
[8] *Id* at 1:12:00.
[9] *Id.*

Section 1.1.C - Relocation of the Applicant's existing store at 3280 Saviers to the subject site with a fuel station will not improve crime and homeless activity problems in the area as a larger facility with more merchandise choices and the fuel station aspect of the Project relocated to a prominent City intersection may bring more customers compared to the location of the existing store and reasonably increase the sale of alcoholic beverages to the homeless.

This finding is not based on substantial evidence and is irrelevant to the findings required for the SUP. The Project is located in a C-2 zone that allows convenience stores by right. The amount of merchandise being sold within the convenience store does not require a special use permit. Also, making a finding that a fuel station will allow more homelessness defies all logic. There is no evidence to suggest that more customers using a store would result in an increased sale of alcohol beverages to the homeless. Instead, evidence in the record demonstrates that the opposite would occur because the City would be allowed to impose conditions. At the Hearing, Sergeant Tim Kelley stated that it would be a benefit to move the Existing Operation to the Property where it can be better regulated.[10] No substantial evidence on the record supported the above finding.

During deliberation, CPC commissioners directly disregarded evidence presented to them that conditions will allow the City to closely monitor the Property, and exert greater control over the Project than they have over the Existing Operation. CPC Chair Diedre Frank stated that she had gone to businesses with imposed conditions and sees violations all the time.[11] She does not cite any examples. Chair Frank then contradicted herself when she conceded that conditions "help".[12]

Section 1.1.D - Demolition of the existing building on the Project site may cause impacts to a potentially significant historical resource as the building was designed by a recognized and respected architecture firm, Frank Homolka & Associates. The Applicant did not undergo a Historical Resource Assessment with the Ventura County Cultural Heritage Board and therefore the impacts to significant historic resources, if any, are unknown; therefore, the Planning Commission is not able to determine if the Project is Categorically Exempt from the California Environmental Quality Act ("CEQA").

California Public Resource Code ("PRC") Section 21084.1 states:

"A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources."

CEQA Guideline 15064.5(a)(3) defines historical resource as:

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[10] *Id* at 1:13:00.
[11] *Id* at 1:13:00.
[12] *Id.*

"(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, **provided the lead agency's determination is supported by substantial evidence in light of the whole record** (emphasis added). Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, § 5024.1, Title 14 CCR, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history."

CPC states that they are unable to determine a Categorical Exemption is valid because the Property is potentially a historic resource. As the lead agency, the City is tasked with determining if the Property is a historic resource. As demonstrated above, for the Property to be designated a historic resource there must be substantial evidence in light of the whole record. The Property has not been listed in any local, state, or federal register and there has been no substantial evidence submitted before the Hearing or at the Hearing to demonstrate that the Property is a historic resource. Moreover, City Staff did not determine that the resource may be a historical resource. CPC Commissioners based their decision that the building was a potentially historic resource on nothing. During deliberation, Chair Frank's stated that "this architect is a significant architect".[13] This statement was not supported by any evidence, and there was no evidence presented at the Hearing to support a historical determination. Therefore, based on all available evidence, the Property is not a historic resource and a Categorical Exemption is appropriate.

b. Pursuant to City Council Resolution No. 11,896. The proposed use is likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied. The following are CPC's findings based on City Council Resolution No. 11,896 and the reasons they were made in error:

Section 1.2.A - The Project will create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is requested because

[13] *Id* at 2:59:00.

the Project site is located in a corner of a major City intersection where there would be more patrons due to more merchandise choices, including gas.

The answers to Section 1.1.A, 1.1.B and 1.1.C are hereby incorporated. No substantial evidence was presented at the Hearing to support this finding. As noted above, police testimony at the Hearing as well as the OPD Report demonstrate that the police **prefer** moving the Existing Operation to the Property. The Existing Operation's legal nonconforming rights allow the Existing Operation to sell alcohol without an SUP. Therefore, the Existing Operation is not subject to any conditions. All evidence strongly demonstrate that SUP conditions will allow the OPD and the City to better control the Property and Project. As mentioned above, the Property is located in a C-2 zone and can have a convenience store located there by right. The amount of merchandise provided does not matter. Therefore, the finding that the Project will create or significantly aggravate police problems is not based on substantial evidence.

Section 1.2.B - These patrons include the homeless, who loiter and panhandle and consume the alcoholic beverage [sic] *they buy outside the store in public. The Project provides a larger facility with a new fuel station on a prominent corner lot with more visibility, and through those combination of factors, the Planning Commission finds the problems of crime, loitering, and panhandling by the homeless are not expected to improve in part due to the inability of the Applicant to manage these problems at the existing store location.*

The answers to Section 1.1.A, 1.1.B and 1.1.C are hereby incorporated. This finding is inaccurate because the Operator is not the Applicant, therefore the Applicant is not responsible for the Existing Operation's surrounding. Also, the Operator does not have control over many factors within the Existing Operation's building because the Existing Operation is part of a larger building complex. Operator's testimony at the hearing demonstrated that the Operator is not directly responsible for managing the problems cited at the Existing Operation.[14] However, the CPC found the Operator is responsible for problems the Operator has no control over. Vice-Chair Chua demonstrates his contempt for the Project when he states in the hearing that the Operator's solution to the problems he is having at the Existing Operation is to "run away and open another site".[15] Police testimony earlier in the Hearing demonstrated that a new site with conditions is **preferable** to the OPD. Vice-Chair Chua directly disregarded all information that demonstrate the Operator currently has no control over the Existing Operation's building. As demonstrated, no substantial evidence was presented at the Hearing to support this erroneous finding. The evidence presented at the Hearing directly contradict this finding.

Section 1.1.C – The Project is likely to create or significantly aggravate police problems within 1,000 feet for which the special use permit is applied.

The answers to Section 1.1.A, 1.1.B and 1.1.C are hereby incorporated. There was nothing presented at the Hearing that states the Project would likely aggravate

[14] *Id* at 1:18:00.
[15] *Id* at 1:23:00.

police problems. In fact, as mentioned above, police testimony directly contradicts this finding. Sergeant Tim Kelley stated that the new location with conditions is preferable. Nowhere is that mentioned in the findings. Therefore, no substantial evidence was presented at the Hearing to support this finding. The evidence presented at the Hearing directly contradict this finding.

III. The CPC Commissioner's Deliberation During the Hearing Demonstrates the Decision to Reject the SUP Was Made Arbitrarily and Capriciously

As mentioned in the GLG Letter, the CPC's discretion in approving the SUP is narrow. The decision to approve or deny a conditional use permit, or in this case a special use permit, must be supported by findings of fact that are in turn supported by substantial evidence in the record before the decision maker at the time of the decision.[16]

Commissioners abused their discretion and made their decision outside their scope of review as demonstrated by CPC's deliberation at the Hearing. The following are examples of statements by CPC Commissioners that suggest their decisions were made arbitrarily and capriciously[17]:

- *Commissioner Chavez stated that the business would steal business from the neighboring market.*

The C-2 zone allows convenience store uses by right.[18] The effect the Project would have on nearby market sales is not part of the analysis for the SUP. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Chavez stated that homeless spend more time in front of 7-11 than any other business.*

The homeless are mentioned several times in the Resolution. OPD stated during the hearing and in the OPD Report that there is already a problem with homelessness in the area. Commissioner Chavez cites only his personal experience near the Existing Operation. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Chavez accused the petition supporting the 7-11 as having "duplicate signatures".*

Commissioner Chavez did not cite to any specific signatures. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

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[16] Krater v. City of Los Angeles, 130 Cal. App. 3d 839, 181 Cal. Rptr. 923 (Ct. App. 1982).
[17] Deliberation started at 2:30:00 of the Hearing video.
[18] OMC Section 16-135.

- *Commissioner Meyer stated that the business would damage children's health because of the junk food.*

As mentioned above, the sale and consumption of junk food is permitted in the C-2 zone and would not require a special use permit. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Meyer asked where the Operator would see the "demand" for a convenience store.*

As mentioned above, the sale and consumption of junk food is permitted in the C-2 zone and would not require a special use permit. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Meyer stated that the business would allow children "visual access" tobacco products.*

The sale or display of tobacco product within a C-2 zone do not require a special use permit and can be done by right. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Dozier stated that he would prefer a business that created more jobs.*

The findings required for the SUP was not based on the number of jobs it can bring. The number of jobs provided is not relevant to granting the SUP. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Fuhring stated that he did not think this is the right use for the Property and other development projects should be considered.*

Commissioner Fuhring did not cite to any traffic study, but from his own personal experience of the traffic in the area. Traffic studies were provided and blatantly disregarded during the deliberation. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Commissioner Flores stated that the Project does not create jobs, and that the project will bring congestion to the area.*

The findings required for the SUP was not based on the number of jobs it can bring. The number of jobs provided is not relevant to granting the SUP. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

- *Vice Chair Chua stated that he thought conditions would actually allow the City to provide more oversight to the project.*

However, Vice-Chair Chua then stated that there will be a negative effect in the area for crime. Therefore, this comment demonstrates the findings are based on evidence irrelevant to the SUP.

IV. Conclusion

The evidence in light of the entire supports findings for approving the SUP. CPC's decision to deny the SUP was not based on substantial evidence. Accordingly, we urge this Commission to overturn the CPC decision and grant the SUP.

Exhibit 1

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Michael Gonzales
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July 25, 2019

VIA EMAIL ONLY

City of Oxnard
Community Development
Planning Division
214 South C Street
Oxnard Ca, 93030
Attn: Veronica Ortiz-De Anda

Re: CASE No. PZ-18-500-12(SUP)

To Whom it May Concern:

This firm represents BV Oxnard, LLC ("BVO") owner of that certain parcel of real property commonly referred to as 2900 Saviers Road (the "Property") located in the City of Oxnard ("City"). The Property contains approximately 45,738 square feet of lot area. The Property is improved with a vacant multi-story building (the "Building"). The Building's ground floor (5,870 square feet) was most recently occupied with a bank. The Building's upper floors (21,580 square feet) were most recently occupied with office uses. BVO proposes to redevelop the Property with a new 3,000 square foot convenience store selling beer and wine for off-site consumption and a gas station (the "Project"). The Project is subject to approval of Special Use Permit Case No. PZ-18-500-12(SUP) (the "SUP"). The SUP application and various supporting documents was filed on September 6, 2018 and is currently being processed by the Oxnard City Planning Department ("Planning Department").

The Planning Department recently provided us with various comment letters submitted by members of the public purportedly opposing the Project. The letters are full of factual errors, inaccuracies and speculative opinion. The letters contain no substantial evidence to support the

assertions set forth therein. One of the letters is from a nearby Chevron gas station owner who fears economic rivalry and thus is motivated by possible declines in sales if the Project is implemented. Additionally, the letters fail to show that the Project cannot satisfy the findings for approval of the SUP as set forth in Oxnard Municipal Code ("OMC"). For the reasons set forth below, we respectfully request the City Planning Commission ("Commission") disregard the comments letters when considering the Project's SUP.

I. THE CITY'S DISCRETION IN APPROVING A SPECIAL USE PERMIT IS NARROW

In the City a special use permit is a conditional use permit by another name. The law surrounding discretionary action on conditional use permits is clear. The City's discretion in acting on a special use permit is narrow and cannot be arbitrary. The decision to approve or deny a conditional use permit, or in this case a special use permit, must be supported by findings of fact that are in turn supported by substantial evidence in the record before the decision maker at the time of the decision.[1]

According to OMC Section 16-531, in addition to consistency with the 2030 Oxnard General Plan ("General Plan"), only the following findings are required to act on a special use permit: "(A) the nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare; (B) the site that is subject to the special use permit shall be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and items which may be required by section 16-532; (C) the site that is subject to the special use permit shall be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate; and (D) the site that is subject to the special use permit shall be provided with adequate sewerage, water, fire protection and storm drainage facilities."

The Commission's action on a special use permit must be based on these findings of fact. The Commission findings of fact must be based on substantial evidence in the record. Similarly, denial of a special use permit must be based on an inability to make these findings or making the findings in the negative. OMC Section 16-530(A) provides that "an application for a special use permit shall be determined as provided in this article." Moreover, the Commission's action must be based on substantial evidence in the record before the City at the time the decision is made.[2] Put another way, the City's review authority is limited to the factual inquiry set forth in Section 16-531

[1] Krater v. City of Los Angeles, 130 Cal. App. 3d 839, 181 Cal. Rptr. 923 (Ct. App. 1982).
[2] California Code of Civil Procedure Section 1094.5(b) and (c).

of the OMC. Failure to base findings on substantial evidence in the record is an abuse of discretion.[3]

The opposition letters submitted to the record do not support a conclusion that findings for approving the SUP cannot be made. The opposition letters, one of which is driven solely by fear of competition, are factually inaccurate and contain information irrelevant to the City's limited discretion in considering requests for special use permits. The opposition letters, therefore, should be disregarded.

II. THE PROJECT IS CONSISTENT WITH THE GENERAL PLAN

The Project is in conformance with the General Plan. The Property is designated Commercial General. The General Plan describes the Commercial General designation as containing "[r]etail centers and free-standing commercial uses along arterials, may also include office, residential uses up to 18 dwelling units per acre, live/work, work/live, and mixed uses.[4] Floor area ratio ("FAR") is described as 0.35 to 1.[5] The Property is zoned C-2, which is a general commercial zone that permits various commercial uses including pool halls, department stores, and retail stores. The C2 zone is expressly set forth as a corresponding zone to the Commercial General land use designation.[6] A special use permit is required for "convenience stores or mini-markets which may both serve packaged alcoholic beverages and dispense gasoline."[7] The required SUP does not render the Project inconsistent with or out of conformance with the General Plan. The Project is a commercial use along a major arterial with an FAR of 0.06 to 1. Accordingly, the Project is consistent with the General Plan. Moreover, none of the opposition letters assert inconsistency with the General Plan.

III. THE PROJECT WILL NOT ADVERSELY AFFECT OR BE MATERIALLY DETRIMENTAL TO ADJACENT USES, BUILDINGS OR STRUCTURES OR TO THE PUBLIC HEALTH, SAFETY OR GENERAL WELFARE

A. The Project will not Adversely Affect or be Materially Detrimental to Adjacent Uses Buildings or Structures

BVO proposes to redevelop the Property with a gas station and convenience store selling beer and wine. The Property is located at the southeast corner of Saviers Road and East Channel Islands Boulevard. The Property is bordered on all sides by public streets and does not immediately abut private property or any residential uses. There are nearby schools, daycare centers or other

[3] Krater v. City of Los Angeles, 130 Cal. App. 3d 839, 181 Cal. Rptr. 923 (Ct. App. 1982); California Code of Civil Procedure Section 1094.5(b) and (c).
[4] Oxnard 2030 General Plan Page 3-16.
[5] *Id.*
[6] Oxnard 2030 General Plan Page 3-19 Table 3.2.
[7] OMC Section 16-136(A)(8).

sensitive receptors. The Property's immediate vicinity is improved with commercial uses and is zoned either C1, C2 or COPD. A Chevron gas station is located west of the Property across Saviers Road. A Wells Fargo bank is located to the northwest, and a large grocery store anchored shopping center is north of the Property. The Saviers Road corridor is unquestionably commercial in nature.

Saviers Road is one of the only north south commercial corridors in South Oxnard, which is largely occupied by a US Naval Base. In the Property's vicinity, Saviers Road is a 6-lane major commercial corridor divided by a median. Convenience stores with gas stations are typically common along major commercial corridors. The only gas station in the Property's vicinity, however, is the Chevron gas station west across Saviers Road. The next closest gas stations are an Arco at the intersection of Saviers Road, South Oxnard Boulevard and West Wooley Road approximately 1.3 miles away, and a 76 gas station at the intersection of Saviers Road and East Yucca Street, approximately ½ mile away. The Project, therefore, would be a welcome addition to the many motorists who travel the Saviers Road corridor to reach the northern parts of the City.

B. The Project will not Increase, Cause or Create Additional Homelessness in the Property's Immediate Vicinity

Many of the opposition letters suggest that the Project will increase the number of homeless, the number of people asking for money and the level of criminal activity. These statements are opinion and are not supported by any evidence in the record. In fact, the Property is currently vacant and serves as a hideout for homeless and other nefarious activity because the Property lacks any activity. The Oxnard Police Department ("OPD") acknowledges this fact in a letter dated February 14, 2019 (the "OPD Letter").[8] Improving the Property with the Project will increase activity in the area and will reduce the potential for homeless and nefarious activity. The increased pedestrian and vehicular traffic will add eyes to the currently dark Property. The letters suggest that developing the Property with some other use may somehow solve South Oxnard's homeless problem. This is simply false. The cause of homelessness cannot be attributed to any one type of development.

The letters repeatedly suggest that stores selling alcohol attract homeless but offer no evidence to support this assertion other than a few grainy photos of a nearby 7-Eleven store at 3280 Saviers Road. All photos were taken on the same night, May 11, 2019 and may have been taken by the same individual. This 7-Eleven, located in a multi-tenant shopping center that includes a large coin operated laundry, will close and relocate to the Property upon Project implementation. The 7-Eleven operator will have more control over the Property as the sole lessor and user of the Property. Moreover, the OPD is requesting the imposition of 40 conditions of approval on the SUP, including, but not limited to, limiting alcoholic beverage display space, limiting sales hours for alcoholic beverages, and prohibiting the sale of single cans and bottles of alcoholic beverages.[9] The current

[8] OPD Letter Page 4.
[9] OPD Letter Attached Requested Conditions of Approval.

7-Eleven operation is not subject to a special use permit and thus not subject to operational conditions.

The area's homeless problem cannot be attributed to any type of use or any single operation. Commercial corridors in many cities attract homeless activity in the evening hours when there are less eyes on the street. The Saviers Road corridor is no exception. Many issues associated with homeless populations, like loitering, pan handling and public intoxication can be addressed by responsible operators who adhere to the strict condition imposed on a special use permit. Again, approval of the SUP will have at least 40 conditions imposed at the request of OPD. Many of the letters assert that certain activity will occur but provide no evidence to support those assertions. Accordingly, the letters must be disregarded because the Project will not adversely affect or be materially detrimental to adjacent uses or buildings.

C. Food Sales will not Adversely Affect or be Materially Detrimental to the Public Health or General Welfare

One of the letters takes issue with the Projects proposal to sell fresh foods, including fresh fruit and sandwiches made daily. The letter contains an article criticizing 7-Eleven healthy food options as too expensive and offers no other evidence why selling healthy foods at a convenience store is problematic. The letter also points out that most convenience stores are associated with the sale of processed food-like products that are high in fat and carbohydrate content. The letter asserts that regular consumption of these foods predispose people to illness and disease. The letter, however, offers absolutely no evidence the Project's patrons will regularly consume processed food in general or from the Project in particular. Moreover, the Project will result in the relocation of the existing nearby 7-Eleven, which sells similar food products, to the Property. The Project is not the addition of a second 7-Eleven to the area. The opposition letters do not contain any substantial evidence that relocating the existing nearby 7-Eleven to the Property will adversely affect the public health or general welfare because of available food items.

D. Gas Station Operations are Heavily Regulated in California to Limit the Potential for Accidental Vapor Release

This same opposition letter asserts that the Project will release carcinogenic vapors into the atmosphere during gas station operations. The Project is subject to the jurisdiction of both the California Air Resources Board ("CARB") and the South Coast Air Quality Management District ("SCAQMD"). Both CARB and SCAQMD impose strict operational requirements on gas station operations to reduce the accidental release of carcinogenic vapors.[10] The opposition letter, however, erroneously states that the Project will result in hazardous chemical exposure to nearby residents. The opposition letter offers a research paper dated September 24, 2018 from the Department of Environmental Health Sciences, Mailman School of Public Health, Columbia

[10] California Health and Safety Code Section 41954 and 41960.2; SCAQMD Rule 461.

University (the "Research Paper").[11] The Research Paper studied two gas stations. One gas station located in the Northwestern United States was studied in 2009. The second gas station located in the Midwestern United States was studied in 2015. The Research Paper did not study any other gas stations and none of the subject gas stations was in the California. The Research Paper does not indicate the age of the subject stations or the age of the equipment used by the subject stations. Moreover, the Research Paper states that "the peak vent emissions were partly due to non-compliant bulk fuel drops where the Stage I recovery system either was not correctly hooked up by the delivery driver or to hardware problems with piping and/or valves. Cleary the increased vapor emissions reflected in the Research Paper were caused by station specific issues and by specific human actors working those stations. Inferring that a newly constructed gas station that adheres to current CARB and SCAQMD is somehow like the subject stations studied in the Research Paper is more than a logical stretch, it is a complete non sequitur. Other than using environmental scare tactics to create a perception the Project will adversely affect or materially detriment the public health or general welfare, the opposition letter does not contain credible evidence.

IV. THE PROPERTY IS ADEQUATE IN SIZE AND SHAPE TO ACCOMMODATE THE YARDS, WALLS, FENCES, PARKING AND LOADING FACILITIES AND LANDSCAPING

The Property contains approximately 1.05 acres of lot area. The property is square in shape and is surrounded by public streets with access from Saviers Road, East Channel Islands Boulevard and Samuel Avenue. The Property is adequate in size and shape to accommodate the Project and the yards required in the C2 zone for commercial uses. All required parking and loading facilities can be accommodated on site. The Project adheres to all applicable development regulations. The Applicant is not requesting relief from any applicable development regulations. The opposition letters do not assert that this finding cannot be made. Accordingly, the Property is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities and required landscaping.

V. THE PROPERTY IS SERVED BY HIGHWAYS ADEQUATE IN WIDTH AND IMPROVED AS NECESSARY TO CARRY THE KIND AND QUANTITY OF TRAFFIC SUCH USE WOULD GENERATE

The Property is served by fully improved highways that are adequate in width to accommodate the Project's protected traffic generation. According to the Focused Traffic Impact Assessment dated August 31, 2018 (the "Traffic Assessment") and submitted to the City on September 6, 2018, the Project is expected to generate a total of 1,120 net trips over the course of 24 hours. The Project, however, will generate 7 net less fewer trips in the AM peak hour and 28 less net trips in the PM peak hour when compared to the prior bank and offices uses contained in the

[11] The opposition letter also includes a summary of the Research Paper published by Science Daily and a print-out of what appears to be a blog titled Earth Talk.

Building. In other words, the Project will generate less vehicle trips at the most congested hour of the morning and evening commute. Project implementation will result in less vehicles on the road during the peak hours.

As noted above, Saviers Road is a six-lane north south highway in the Property's vicinity. East Channel Islands Boulevard is a four-lane east west highway in the Property's vicinity. Both highways are adequate in width and improved to carry the projected Project generated traffic. A few of the opposition letters allege the Project will result in an unacceptable traffic increase and will increase the probability of accident and stress experienced by drivers. Other than speculative opinion, the opposition letters offer no evidence or empirical data to support these positions. The Applicant, on the other hand, has prepared the Traffic Assessment, which demonstrates the Project will result in reduced traffic during the AM and PM peak hours when compared to the prior office and bank uses. The Traffic Assessment was reviewed and approved by the City's Department of Transportation. While the Project will result in increased daily traffic generation, these trips will not put pressure on the adjacent intersections during the AM and PM peak hours when drivers experience most traffic congestion. The Project's trip generation will be spread throughout the day and will be less perceptible. If the Building was repopulated with bank and office uses, permitted by right in the C2 zone, AM and PM peak hour traffic impacts would be greater. Accordingly, the Project's trip generation can be adequately accommodated by the adjacent highways. The opposition letters do not contain a shred of substantial evidence to rebut the Traffic Assessment's empirical data. Accordingly, the opposition's speculative assertions that the Project will have traffic impacts must be disregarded.

VI. THE PROPERTY IS LOCATED IN A HIGHLY URBANIZED AREA AND IS ADEQUATELY SERVED BY SEWERAGE, WATER, FIRE PROTECTION AND STORM DRAINAGE

The Property is served by adequate sewerage, water, fire protection and storm drainage facilities. The Property is in an urbanized area adequately served by City utilities like sewer and water. Converting the Property from 27,450 square feet of bank and office uses will reduce the demand for both sewer and water services. Similarly, demolishing and replacing the 27,450 square foot multi-story Building with 3,000 square foot single story structure will not increase fire protection demands. The Project will not increase the amount of impervious surface and will not change drainage patterns because most of the Property is currently impervious. Finally, during multiple Development Advisory Committee meetings, City Staff did not raise material concerns with the adequacy of these utilities and services.

VII. THE PROJECT DOES NOT CHANGE THE CONCENTRATION OF ALCOHOIC BEVERAGE LICENSES IN THE AREA

The Project will not add to the concentration of alcoholic beverage licenses in Census Tract 0040.00. As noted above, Project implementation will result in relocating the existing 7-11 at 3280 Saviers Road to the Property. The existing alcoholic beverage license will be also be transferred to the Property. Moreover, as noted above the existing 7-11 operates without conditions of approval. Transferring the existing alcoholic beverage license to the Property will result in the imposition of at least 40 conditions of approval requested by OPD. Taking the currently unregulated license and subjecting that license to stringent operational conditions is a positive outcome of the area. OPD is aware of this benefit stating that "establishing the business at the new location will allow the City the opportunity to condition the business through the Alcohol SUP."[12] Therefore, the Project will not change the concentration of alcoholic beverage licenses.

VIII. CONCLUSION

The findings for approving the Project's SUP can be made. The opposition letters do not contain any substantial evidence to the contrary. The opposition letters contain are full factual errors and inaccuracies. The opposition letters contain speculation and opinion regarding the Project's effect. Additionally, the opposition letters rely on irrelevant data to draw parallels between accidental vapor release and the Project. Accordingly, we urge this Commission to disregard the opposition letters.

Very truly yours,

Michael Gonzales
Gonzales Law Group APC

[12] OPD Letter Page 5.

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November 6, 2019

VIA EMAIL ONLY

City of Oxnard
Community Development
Planning Division
214 South C Street
Oxnard Ca, 93030
Attn: Jeffrey Lambert, Planning Director
jeffrey.lambert@oxnard.org

RE: CASE No. PZ-18-500-12(SUP)

Dear Mr. Lambert:

As you may know, we represent BV Oxnard, LLC ("BVO") owner of that certain parcel of real property commonly referred to as 2900 Saviers Road (the "BVO Property") located in the City of Oxnard ("City"). BVO proposes to redevelop the Property with a new 3,000 square foot 7-Eleven convenience store selling beer and wine for off-site consumption and a gas station (the "Project"). The Project was subject to approval of Special Use Permit Case No. PZ-18-500-12(SUP) (the "SUP"). On September 19, 2019, a hearing (the "Hearing") was held before the City's Planning Commission ("CPC") to consider the SUP. At the Hearing CPC voted to deny the SUP, contrary to City Staff's recommendation. A resolution for denial was not before the CPC at the Hearing, therefore a subsequent hearing was held on October 17, 2019 to finalize the decision. On October 17, 2019, CPC considered the resolution to deny the Project and denied the SUP (the "Denial").[1] Gregory Fick from Tait and Associates filed an appeal of the Denial on November 4, 2019 (the "Appeal").

[1] A copy of the Resolution was delivered by email to Tait and Associates on October 25, 2019. The Resolution did not have a number and was unsigned.

We understand that the Appeal will be scheduled for a hearing on December 3, 2019. We would like to formally request a continuance of 60 days for the City Council to consider the Appeal. Please do not hesitate to call our office with any questions.

Thank you,

Michael Gonzales
Gonzales Law Group APC

cc: Greg Fick (Email Only)

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.1.

DATE: December 3, 2019

TO: City Council

FROM: Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

SUBJECT: Downtown Improvement Program Settlement Funds (DIPSF) - Priority Funding Recommendations. (10/20/10)

RECOMMENDATION

That the City Council:
1. Receive a report of Downtown Improvement Program Settlement Funds to benefit the revitalization of Downtown Oxnard; and
2. Approve a budget appropriation in the amount of $540,000 from the fund balance of the City-Downtown Improvement Fund (481).
(Housing and Economic Development Committee approved 3-0)

BACKGROUND

After a long-standing dispute regarding the disposition of funds earmarked for Downtown Revitalization, a settlement agreement was reached and finalized in April 2015, between the City and developers of Centennial Plaza. The settlement involves the distribution of funds derived from the development of a new RiverPark theater complex at The Collection. Settlement funds are intended to offset the potential impact that the new theater complex at the Collection might have on Plaza Cinemas and the adjoining Centennial Plaza in Downtown Oxnard. The settlement funds were placed into a City account titled “Downtown Improvement Program,” and throughout this report, the settlement money will be referred to as Downtown Improvement Program Settlement Funds (“DIPSF”).

Under the settlement agreement $6.15 million was earmarked for downtown revitalization. Based on the Congress for New Urbanism ("CNU") Vision Plan (2016) and a community survey with approximately 90 respondents, on January 31, 2017 staff requested $1,455,000 of the $6.15 million in DIPSF for downtown revitalization efforts. City Council did not support the majority of the funding requests at that time because Council wanted the Downtown Development Code updated first; which has now been completed.

The DIPSF balance through the 18/19 Fiscal year is $4,444,285, which includes interest earned to date. Previous City Council authorized expenditures from this fund include: lighting improvements (funded and completed), public restrooms pilot program (funded, implemented but discontinued), tree trimming (funded and completed), Downtown Development (Zoning) Code (funded and completed), Parking Management Plan (funded and in progress), Arts Hub (funded and in progress), and Project Manager (funded and incorporated within duties of Economic Development Manager and Project Manager).

The implementation of these funding priorities has already resulted in revitalization and investment in Oxnard's Downtown. Most notably the adoption of the new Downtown Code in September has resulted in several development projects moving forward: (1) Billboard lofts is a 51 unit condominium project at 8th and A Streets that has been formally

filed and expected to see approval in the 1st quarter of 2020; (2) Madison Park is working under the City Council approved Exclusive Negotiation Agreement (ENA) for the Plaza Park North and Plaza Park East properties; (3) Requests for Proposals (RFPs) are being developed for two City owned properties, one at 7th and Oxnard Boulevard and one at 2nd and B Streets; and several others are working toward a formal application submittal. The Parking Management Plan was used to inform the reduced parking requirements in the Downtown Code.

ANALYSIS / DISCUSSION

The City is developing a multi-pronged approach to downtown revitalization. These elements include:

1. Addressing the impact from homelessness and vagrancy
2. Seeking private economic investment through the development of city and privately owned properties
3. Creating a clean and safe environment, and
4. Creating a vibrant downtown environment.

The recommendations for use of the DIPSF in this report are focused on improving the physical and safety environment in the downtown and support the multi-pronged approach to revitalization. Staff believes by doing this along with other efforts to encourage private investment, the downtown will be well positioned for revitalization; which will help grow the property values and downtown improvement district. Other concurrent efforts to revitalize Oxnard's downtown include:

1. Adoption of new Downtown Development Code in July which has already resulted in the first new project submittal (Billboard Lofts),
2. Approved Exclusive Negotiation Agreement with Madison Park for City owned properties at Plaza Park North and Plaza Park East,
3. Anticipated request for Proposals for two key properties focusing on the development of affordable housing at Seventh Street and Oxnard Boulevard and Second Street and B Street,
4. Recently adopted regulations regarding camping, removal and storage of personal property, park exclusion, and aggressive panhandling and solicitation, and
5. Engaged New City America to advise and support the Downtown PBID and the City's efforts to revitalize downtown Oxnard. New City America has successfully supported cities such as Little Italy, San Diego, to become vibrant downtown's with healthy revenue streams.

The following recommendations are intended to build on the recent investments and strategies implemented in Downtown Oxnard by focusing on creating a physical and safe environment to attract private economic investment. It is anticipated that if the City can succeed not only in creating an entitlement environment that welcomes this private development investment but also in ensuring the downtown is a safe and inviting place for that investment and for those future residents, the City will see the results in attracting new residential development in the Downtown.

The funding recommendations included in this report have been designed to directly implement the above described multi-pronged approach to Downtown Oxnard's revitalization. A three-year time horizon has been recommended for these funding priorities because this timeframe will align with the expected new development such as those with Madison Park.

STAKEHOLDER ENGAGEMENT

On September 25, 2019 staff presented the recommendations for programming of the DIPSFs to the Oxnard Downtown Management District (ODMD) monthly meeting. For this meeting and presentation members of the Downtown Design Review Committee and The Downtowners were invited to participate. Although the ODMD took no formal action to comment on the recommendations, the funding recommendations were generally well received. However, the ODMD offered suggestions to consider funds for arts organizations, 3rd Street bridge enhancements, commercial facade improvements, additional maintenance funding, and extension of A Street decorative lights to 8th Street. The ODMD also suggested the funding was too heavy on security and homelessness issues. Staff has adjusted the funding

recommendations in response to comments received and further consideration by City staff.

FUNDING RECOMMENDATIONS

Staffs recommendations for the programming of the DIPSFs include:

Homeless Outreach: $100,000 (Annually for Three Years)

Staff proposes a street outreach and encampment response team, in partnership with the Oxnard Police Department. While this team would be citywide, staff proposes this additional funding to focus within the Downtown area. This funding will provide two (2) dedicated outreach workers for Downtown in addition to two (2) additional staff for the remainder of the City (not paid by the DIPFS). The team will offer daily outreach and response to the homeless population encamped within the downtown area offering resources including counseling and shelter. The team will work in close partnership with local homeless services providers and law enforcement.

The Housing Department recently issued a Request for Proposals (RFP) seeking to procure a contract street outreach team. The RFP has closed and staff is considering respondents. Staff estimates an annual cost of $100,000. For FY19-20, the anticipated cost would be $50,000 for January to June of 2020.

Property Management/Maintenance: $260,000 (One Time)

Laundromat (318 W. 5th Street) ($195,000) - It is critical that the City invest in nuisance abatement for the most challenging properties owned within the Downtown. There is a pressing need to address the challenges of the Laundromat building on 318 W. 5th Street. This building regularly experiences break-ins and damage that impacts the adjacent properties and the overall Downtown area. In addition these incidents require responses from Police, Fire and Facilities, costing the City significant ongoing expenses. City staff have concluded that the best option is to demolish this building as soon as possible. The estimated cost of this demolition is $195,000. This one time expenditure will show the City's commitment to safety and property maintenance in the Downtown. However, it will be critical that the demolition of this nuisance property not create a new nuisance in the vacant lot left behind. Therefore, the City will seek temporary uses and/or community art activation efforts to ensure the property is an ongoing asset to the Downtown community. The details of this activation, and any potential funding requirements, will be defined prior to the demolition of the building,

Downtown Parking Structure ($65,000) - The Downtown parking structure is clearly an asset to the revitalization of the Downtown. However, it faces many challenges from vagrancy and criminal activity that must be addressed. The City currently has two (2) officers assigned permanently to the Central Business District ("CBD") (Senior Officer Plymire and Officer Romero). They are "stationed" out of the downtown storefront located in the parking structure. They report directly to the storefront each work day and change in and out of their uniforms there each shift. OPD also has four (4) Homeless Liaison Officers ("HLO") that work out of that storefront as well although they generally don't spend as much time there as the CBD officers. The CBD Officers check all levels of the parking structure at least once every shift they work and they also encourage the PSC Downtown contract security staff to make daily walk-throughs of the structure. The City is spending approximately $25,000 annually (between Public Works and Police) responding to calls at the Parking structure.

To help address the perceived safety concerns and support efforts of creating a clean and safe environment, Staff suggests updating the lighting in the parking structure at an estimated cost of $65,000.

Public Safety: $200,000 (Annually for Three Years)

Downtown Targeted Police Deployment ($200,000) - The Police Department's central business district (CBD) deployment plateaued in 2003-2004 when we had seven (7) Police Officers II's and one (1) Police Officer III assigned downtown. This allowed for 7-day a week coverage both during the day and in the evening hours. During that time

Oxnard PD conducted a lot of outreach with local business owners (often times deployed on bicycles) and were also able to conduct enforcement and compliance checks on the bars/clubs at night. As the rest of the city began to grow (RiverPark, Seabridge, Westport, Cypress, East/West Village, etc.), Oxnard PD did not receive any additional officer positions so CBD staffing was redeployed to other areas in the city. Today staffing consists of two (2) POII's and one (1) POIII. Unfortunately, due to a long-term injury, there is only one of the POII positions filled in the CBD at the present time.

Providing additional overtime funding at a rate of $200,000 annually limited to service within the Downtown over three years would greatly enhance OPD's ability to address problems in the downtown. These funds would result in 40 additional hours per week dedicated to the Downtown area and is similar to other communities such as Seabridge and Riverpark that fund additional Police personnel (in those cases it is through the Community Facilities Districts (CFDs). These additional overtime funds would allow for more weekend coverage and would also allow a return to alcohol compliance efforts in the evening hours which OPD is doing very little of at the present moment. Overtime funding, rather than additional authorized officer positions, allows for a more directed impact by choosing the busiest hours and days for selective uniformed enforcement.

Staff/Consultants: Additional $30,000 recommended in fiscal year 2019/20 and $90,000 annually for two additional years

Previously the City funded (from the DIPSF) a full time Downtown Revitalization Manager. Funding for this position was revised to $147,474 with the adopted 2019/20 Fiscal Year to fund a portion of other Downtown-focused staff within the Community Development Department: Community Development Director, Economic Development Manager, Economic Development Project Manager (vacant), and Economic Development Administrative Secretary. The total annual costs remains the same. In addition, the City has contracted with New City America to provide revitalization services and advice, which a focus on supporting the PBID. Additional information on these efforts are scheduled to be presented at Council's December 17th meeting. The adopted 2019/20 Fiscal Year budget allocates $61,000 for New City American services and the subject recommendation is to increase this amount by $30,000 in Fiscal Year 2019/20 and continue funding for the next two additional years at an annual rate of $90,000.

Future Funding Considerations

The above recommendations have been put forward to maximize the impact on the City's efforts to revitalize and spur reinvestment in Downtown Oxnard. However, with development and investment in downtown staff anticipates the following future funding considerations:

- Downtown Ambassadors - Cities such as Riverside and Ventura have experienced significant improvements in their downtowns by deploying "ambassadors." Ambassador programs consist of clearly identified personnel that are dedicated to a geographic area (such as Downtown Oxnard).
- Enhanced Maintenance - Staff is working with the ODMD to update the Baseline Services MOU and will continue to collaborate with the ODMD to seek opportunities to enhance regular maintenance of public facilities in the Downtown such as the parking structure, trash trash service, and parks.
- Enhanced cameras within the Downtown parking structure and other locations; this will be considered as the City looks at a comprehensive camera system.
- Real Estate Transactions Expenses - as the City pursues the development its owned property, these transactions will include costs such as appraisals, escrows, etc. Staff is evaluating seeking funding for these services up to an amount of $50,000. As these properties are transferred the purchase price retained by the City can reimburse these funds back to the DIPSF.
- Public Restrooms - One of the challenges in the Downtown is the lack of public restrooms. The City has previously considered public restrooms in the Downtown and the parking structure is a reasonable site for this enhancement. Public restrooms were piloted in the Downtown in 2018 through the use of port-o-potties. These were not successful as they required significant maintenance and resulted in community opposition from nearby business owners. To accomplish a public restroom strategy well, the City will need to dedicate adequate staff for

ongoing and regular management of these facilities to ensure they remain available and inviting to the general public. Therefore, no funds are being requested for a restroom program at this time.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Goal 2. Address homelessness through the development and implementation of a multi-tiered strategy.
Objective 2a. Identify the City's homelessness mission and create a 5-year plan to address homelessness.

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Goal 2. Enhance business development throughout the City.
Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

Goal 5. Revitalize Oxnard's downtown and pursue economic development opportunities.
Objective 5a. Develop a vision and plan (with timelines) for downtown revitalization to create a vibrant center for our community, emphasizing cultural arts, diversity and historic assets.

FINANCIAL IMPACT

The total new cost for the recommendations contained in this report is $260,000 one-time costs and an annual cost of $280,000 in FY2019-20 for a total FY2019-20 recommended cost of $540,000. The projected FY2019-20 ending unassigned fund balance of the City-Downtown Improvement fund (481) is $3.5 million net of this appropriation request. Annual costs in FY2020-21 and FY2021-22 is $537,474 (the costs below and approved staff costs of $147,474). The total cost over three years (FY 20, FY 21, and FY 22) is $1,614,948. Approval of the recommendation will appropriate $540,000 in FY2019-20 from fund balance for the recommended program uses. Costs of FY2020-21 and FY2021-22 will be included in the budgets of each fiscal year accordingly.

Project	Budget Year 1	Budget Years 2 and 3	Occurrence
Homeless Outreach	$50,000	$100,000	annually
Laundromat	$195,000		one-time
Downtown Parking Structure Lighting	$65,000		one-time
Police Resources	$200,000	$200,000	annually
Consultant	$30,000	$90,000	annually
	Total: $540,000	**Total: $390,000**	

COMMITTEE OUTCOME

The Housing and Economic Development Committee voted 3-0 on November 12, 2019 to approve the staff recommendation and to forward the item for Council approval. The Committee asked staff to report back to the Committee in the Spring of 2020 on a status of these funded projects and future considerations.

Prepared by: Jeffrey Lambert, Community Development Director

ATTACHMENTS

1. Budget Appropriation - Downtown Improvement Program Settlement Funds
2. Downtown Settlement Fund Expenses
3. CC 12_03_19 Downtown Settlement Fund PPT

REQUEST FOR BUDGET APPROPRIATION

Department: Community Development **Date:** November 12, 2019

Project/Program Manager: Jeffrey Lambert **Phone:** 385-7882

Reason for Appropriation:

Funding for Downtown Improvement program priorities

Accounts and Descriptions		AMOUNT
Fund: CITY - DOWNTOWN IMPROVEMENT (FUND 481)		
Expenditures/Transfers Out		
DEV. SUPPORT DOWNTOWN IMPROVEMENT (4503)		
481-4503-804.82-09	SVCS-OTHER PROF/CONTRACT	30,000
HOUSING SERVICES ADMINISTRATIVE SUPPORT (5101)		
481-5101-804.82-09	SVCS-OTHER PROF/CONTRACT	50,000
DOWNTOWN TARGETED POLICE DEPLOYMENT (PROJECT 20IN03)		
481-2103-804.80-03	OVERTIME	200,000
LAUNDROMAT BLDG DEMOLITION (PROJECT 20IN04)		
481-8810-804.82-09	SVCS-OTHER PROF/CONTRACT	195,000
DOWNTOWN PARKING STRUCTURE IMPRV (PROJECT 204501)		
481-8810-804.84-51	SERVICES FROM OTHER PROG	6,500
481-8810-826.86-02	BUILDINGS-NEW	58,500
	Sub-total Expenditures	**540,000**
	Net Change to Fund Balance	**(540,000)**
	Net Appropriation Change	**540,000**

Approvals

Department Director _____

Chief Financial Officer _____

City Manager _____

BA# (Finance Use Only)_____

BA Doc# (Finance Use Only)_____

REQUIRES CITY COUNCIL AUTHORIZATION

Revised : 2/23/2012

Description	FY19-20 Adopted Budget	New Budget Proposed FY19-20 per Staff Report #2019-383	Total Proposed Budget for FY20	Annual or One-Time	Notes
Staffing (Labor, Benefits, & Workers Comp., UAL, Salary Reserve): 481-4503	$147,474	$0	147,474	Annual Budget	To manage and oversee Downtown improvement; will be included in annual budget for add'l 2 years, i.e., FY21 & FY22
Professional Contract Services: 481-4503-804.8209	$61,000	$30,000	91,000	Annual Budget	To be included in annual budget for add'l 2 years, i.e., $90K in FY21 and $90K in FY22
Homeless Outreach (New operational 481-5101-804.8209)	$0	$50,000	50,000	Annual Budget	$50K for 1/2 yr. operation in FY19-20. To be included in annual budget for add'l 2 years, i.e., $100K in FY21 and $100K in FY22
Downtown Targeted Police Deployment (New Project 20IN03): 481-2103-804.8003		$200,000	200,000	Annual Budget	To be included in annual budget for add'l 2 years, i.e., $200K in FY21 and $200K in FY22
Laundromat Bldg Demolition (New Project 20IN04): 481-8810-804.8209		$195,000	195,000	One-time	Demolition by contract; PW mgmt
Downtown Parking Structure Imprv (New Project 204501): 10% Svcs fr Other Program 481-8810-804.8451 and 90% Bldg New 481-8810-826.8602		$65,000	65,000	One-time	To purchase/install lighting; PW mgmt
Total	**208,474**	**$ 540,000**			

Downtown Improvement Program Settlement Funds (DIPSF) - Priority Funding Recommendations

Jeffrey Lambert, Community Development Director
Community Development Department

City Council
December 3, 2019

CITY OF OXNARD CALIFORNIA

Background

- April 2015 - Settlement agreement reached and finalized between the City and developers of Centennial Plaza.
- Settlement funds were placed into a City account titled Downtown Improvement Program Settlement Funds ("DIPSF").
  - The purpose is to invest in the revitalization of Downtown Oxnard.
- $6.15 million was earmarked for Downtown Revitalization. The current balance is approximately $4,444,285.

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Previously Funded Project

1. Lighting Improvements (funded and completed)
2. Public Restrooms Pilot (funded, implemented but discontinued)
3. Tree Trimming (funded and completed)
4. Downtown Development Code (funded and completed)
5. Parking Management Plan (funded and in progress)
6. Arts Hub (funded and in progress)
7. Project Manager (funded and incorporated within duties of Economic Development Manager and others)

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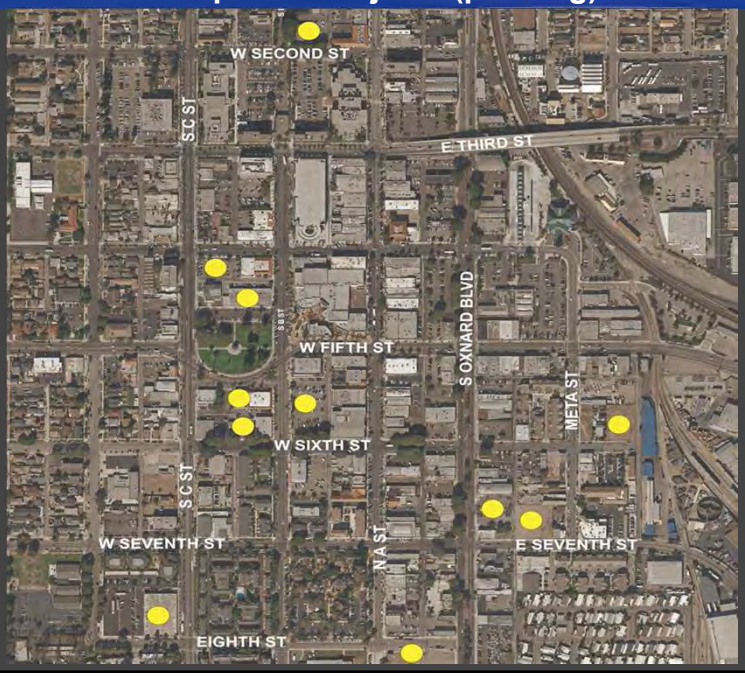
Recent Downtown Revitalization Accomplishments

- Downtown Zoning Code Adoption
- Exclusive Negotiation Agreement (ENA) with Madison Park
- Requests for Proposals for two affordable housing sites (pending)
- Adopted regulations regarding camping, removal and storage of personal property, park exclusion, and aggressive panhandling and soliciting
- New City America PBID and revitalization consulting services.

4

Downtown Development Projects (pending)



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Framework for Funding Recommendations

1. **The City is developing a multi-pronged approach to downtown revitalization. These strategies include:**
   a. Addressing the impact from homelessness and vagrancy
   b. Seeking private economic investment through the development of city owned properties, and
   c. Creating a clean and safe environment.
   d. Creating a vibrant downtown environment.
2. The funding recommendations are intended to further these downtown strategies and ready Downtown Oxnard for additional private economic investment and revitalization.

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Homeless Outreach

Street outreach and encampment response team

- 2 team members dedicated to downtown
- Team will work in partnership with local services providers and law enforcement.
- Daily outreach to offer resources
- Staff estimates an annual cost of $100,000.

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Property Management/Maintenance

- **Laundromat (318 W. 5th Street) - $195,000 estimated**
  - Regularly experiences break-ins and damage impacting adjacent properties and overall Downtown area.
  - City staff concluded best option is to demolish building.
  - City will develop a strategy to activate space to ensure the property is an ongoing asset to the Downtown community.

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Property Management/Maintenance

- **Downtown Parking Structure - $65,000 estimated**
  - City is spending approximately $25,000 annually (between Public Works and Police) responding to calls at the Parking structure
  - Recommending lighting upgrades to make the parking structure more inviting to users

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Public Safety

Additional Police Deployment Resources

- 2003-2004: 7 Police Officers (PO)II's ; 1 Police Officer III assigned downtown
- 2019: 2 POII's and 1 POIII.
- Recommend providing $200,000 in overtime funding specific to downtown
  - Equivalent to 40 hours / week
  - Overtime funding allows for staffing at specific hours and days

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Staff/Consultants

- Previously the City funded (from the DIPSF) a full time Downtown Revitalization Manager.
- Through the adoption of the 2019/2020 annual budget, that position has been folded into the duties of several key staff:
  - Community Development Director
  - Economic Development Manager, Project Manager (vacant), and Admin Secretary
- The City has contracted with New City America to provide revitalization services and support for the ODMD to create a stronger revenue source for reinvestment in downtown
  - Additional $30,000 recommended in fiscal year 2019/20 and $90,000 annually for two additional years

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Future Considerations

- **Downtown Ambassadors** - Cities such as Riverside and Ventura have experienced significant improvements in their downtowns by deploying “ambassadors.” Ambassador programs consist of clearly identified personnel that are dedicated to a geographic area (such as Downtown Oxnard).
- **Enhanced Maintenance** - Staff is working with the ODMD to update the Baseline Services MOU and will continue to collaborate with the ODMD to seek opportunities to enhance regular maintenance of public facilities in the Downtown such as the parking structure, trash trash service, and parks.
- **Real Estate Transactions Expenses** - Staff is evaluating seeking funding for transaction expenses such as appraisals. As these properties are transferred the purchase price retained by the City can reimburse these funds back to the DIPSF.

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Financial Impact - City-Downtown Improvement fund (481)

- Proposed Fiscal Year 2020:
  - One-Time - $260,000
  - Annual - $280,000
  - TOTAL Fiscal Year 2020 - $540,000
  - The projected FY19-20 ending fund balance = $3.5M
- Proposed FY 2021 and FY 2022 Annual Costs
  - $537,474
- Total recommendation costs over three years:
  - $1,614,948

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Recommendation

That the City Council:

1. Receive a report of Downtown Improvement Program Settlement Funds to benefit the revitalization of Downtown Oxnard, and
2. Approve a budget appropriation in the amount of $540,000 from the fund balance of the City-Downtown Improvement Fund (481).

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CITY OF
OXNARD
CALIFORNIA
DISCUSSION

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.2.

DATE: December 3, 2019

TO: City Council

FROM: Scott Whitney, Police Chief, (805) 385-7624, scott.whitney@oxnardpd.org

SUBJECT: Ordinance revision to ban the sale of flavored tobacco products. (20/15/10)

RECOMMENDATION

That City Council approve the first reading by title only and waive further reading of an ordinance amending Article XIV of Chapter 11 of the Oxnard City Code related to Tobacco Retailer Permits and the sale of flavored tobacco products.

BACKGROUND

Currently, there are 162 tobacco retailers licensed in the City.

The Public Health Community has long been aware of the tremendous negative public health impacts of flavored commercial tobacco products, resulting from the tobacco industry's targeted marketing of these products to young people and minority populations. With the rapid rise in youth use of flavored e-cigarettes, in particular, and in the wake of alarming reports of vaping-related lung injuries, this concern has deepened.

While the Family Smoking Prevention and Tobacco Control Act, enacted in 2009, prohibited the sale of most flavored cigarettes, the flavor ban did not extend to menthol-flavored cigarettes or to any flavored non-cigarette tobacco products such as cigars, hookahs, and e-cigarettes. This exclusion raised serious public health concerns as studies demonstrate that flavored tobacco products, particularly menthol cigarettes, are used at disproportionately higher rates by racial and ethnic minority smokers, LGBT smokers, and teen smokers.

The public health problems associated with flavored tobacco products are now both acute and pervasive. Today hundreds of e-cigarette brands are available in thousands of kid-friendly flavors. Also, sales of flavored cigars increased by nearly 50% since 2008 and they now comprise a majority of the cigar market. Flavorings in tobacco products make them more appealing to young people, masking the harshness of cigarette smoke and nicotine. Over 80 percent of young people who use tobacco products report starting with a flavored product. In addition, flavors such as menthol can make quitting tobacco products more difficult.

In 2018, given the drastic growth in e-cigarette use among young people, the U.S. Surgeon General declared youth vaping an epidemic, constituting a serious public health concern driven in part by the availability of “kid-friendly flavors.” According to the recent National Youth Tobacco survey, the use of e-cigarettes among high school students continues to rise — from 20.8 percent in 2018 to 27.5 percent in 2019. Despite this, flavored non-cigarette tobacco products continue to be on the market in most parts of the country. A California Healthy Kids Survey 2017-18 for Oxnard Union High School District found that 11 % of 9th graders, 9% of 11th graders and 22% of Non-Traditional school students have used an e-cigarette in the past 30 days.

Many local communities have taken significant steps to address this problematic regulatory gap by passing restrictions on

the sale of all flavored tobacco products, including menthol cigarettes. More recently, amid serious health concerns associated with e-cigarette use, a growing number of states and Tribal governments are taking bold action to limit youth access to e-cigarettes, particularly flavored products.

In 2012, the Oxnard Council established the tobacco retailer license program in order to: ensure responsible, legal sales of tobacco-related products and establish a program fee to fund program administration, enforcement, and compliance monitoring to prevent sales to youth.

The purpose of this amendment is to regulate flavored tobacco products and other emerging products to close gaps in Federal and State laws that do not yet address electronic cigarettes or electronic nicotine delivery systems and other products that may be appealing to youth.

With the recent deaths nationwide from this epidemic and the ease to manipulate these vaping devices to include THC, it is important we act now to take care of our youth.

City Code Revisions

The proposed ordinance:

(1) Adds and modifies various definitions

New definitions include the following:

ELECTRONIC SMOKING DEVICE – Any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

FLAVORED TOBACCO PRODUCT - Any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

LITTLE CIGAR – Any roll of tobacco other than cigarettes wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand. Little cigar includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

TOBACCO PRODUCT- means:

(1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
(2) any electronic smoking device as defined in this article and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
(3) any component, part, or accessory of 1) or 2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.

"Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(2) Adds headings where appropriate

(3) Prohibits the sale of flavored tobacco products

SEC. 11-374. SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED.

(A) It shall be unlawful for any retailer to sell or offer for sale any flavored tobacco product.

(B) There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored tobacco products, including, but not limited to, individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to Sell or offer for Sale.

(4) Adds tobacco product and pricing restrictions

SEC. 11-375. TOBACCO PRODUCT PRICING AND PACKAGING.

(A) PACKAGING AND LABELING. No tobacco retailer shall sell any tobacco product to any person unless such product: (1) is sold in the original manufacturer's packaging intended for sale; and (2) conforms to all applicable federal labeling requirements.

(B) DISPLAY OF PRICE. The price of each tobacco product offered for sale shall be clearly and conspicuously displayed to indicate the price of the product.

(C) PROHIBITION OF TOBACCO COUPONS AND DISCOUNTS. No tobacco retailer shall:

(1) Honor or redeem, or offer to honor or redeem, a coupon to allow a person to purchase a tobacco product for less than the full retail price;

(2) Sell any tobacco product to a person through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or

(3) Provide any free or discounted item to a person in consideration for the purchase of any tobacco product.

(D) MINIMUM PACKAGE SIZE FOR LITTLE CIGARS AND CIGARS. No tobacco retailer shall sell to a person:

(1) Any little cigar unless it is sold in a package of at least 20 little cigars, or any cigar unless it is sold in a package of at least six cigars; or

(2) The restriction in subsection D(1) shall not be a cigar that has a price of at least [$5] per cigar, including all applicable taxes and fees.

(5) Modifies various permit procedures

(6) Revises permit suspension and revocation provisions

Although the ordinance would be effective thirty days after adoption, the City would begin enforcement no sooner than 90 days after the ordinance is adopted.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Objective 1a. Create a renewed focus on police/community relations with underserved communities and youth population.

Objective 1b. Explore alternatives for youth through recreation programs and intervention services.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Eric Sonstegard, Assistant Police Chief

ATTACHMENTS

1. TOBACCO RETAILERS ORDINANCE CLEAN COPY
2. TOBACCO RETAILERS ORDINANCE REDLINE
3. AMA calls for total ban on all vaping products not approved by FDA _ American Medical Association
4. Matrix-of-Local-Ordinances-Restricting-Flavored-Tobacco-2019-05-07
5. The Truth About Flavored Tobacco CDPH
6. 191203 Flavored Tobacco Presentation
7. 191203 Flavored Tobacco Ordinance Presentation

CITY COUNCIL OF THE CITY OF OXNARD
ORDINANCE NO.

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, AMENDING CHAPTER 11 ARTICLE XIV OF THE CITY CODE CONCERNING TOBACCO RETAILER PERMITS

WHEREAS, the California Legislature recognizes the danger of tobacco use and has made reducing youth access to tobacco products a high priority; and

WHEREAS, State law explicitly permits cities and counties to enact local tobacco retail licensing ordinances and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, flavorings in tobacco products make them more appealing to young people, masking the harshness of cigarette smoke and nicotine; and

WHEREAS, over 80 percent of young people who use tobacco products report starting with a flavored product; and

WHEREAS, a California Healthy Kids Survey 2017-18 for Oxnard Union High School District found that 11 % of 9th graders, 9% of 11th graders and 22% of Non-Traditional school students have used an e-cigarette in the past 30 days; and

WHEREAS, on November 20, 2019, the American Medical Association called for a total ban of non-Food and Drug Administration approved vaping products; and

WHEREAS, the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City of Oxnard.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Part 1. City Code Amendment. Article XIV to Chapter 11 of the Oxnard City Code is hereby amended to read as follows:

"**ARTICLE XIV. TOBACCO RETAILERS**

For the purposes of this article, the following words shall have the following meanings:

SEC. 11-370. DEFINITIONS.

(A) ARM'S LENGTH TRANSACTION - A sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale

between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of the article is not an arm's length transaction.

(B) CIGAR – Any roll of tobacco other than cigarettes wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand.

(C) CIGARETTE – (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described herein.

(D) COLLECTOR - The city treasurer or designee.

(E) ELECTRONIC SMOKING DEVICE – Any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(F) FLAVORED TOBACCO PRODUCT - Any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

(G) LITTLE CIGAR – Any roll of tobacco other than cigarettes wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand. Little cigar includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

(H) PERSON -Any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(I) PROPRIETOR- A person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

(J) SALE or SELL – means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

(K) SELF-SERVICE DISPLAY -The open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service-display.

(L) TOBACCO PRODUCT- means:

(1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

(2) any electronic smoking device as defined in this article and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(3) any component, part, or accessory of 1) or 2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.

"Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(M) TOBACCO RETAILER - Any person who sells, offers for sale, exchanges or offers to exchange for any form of consideration tobacco products.

(N) TOBACCO RETAILING - Selling, offering for sale, or exchanging or offering to exchange for any form of consideration tobacco products without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.

SEC. 11-371. TOBACCO RETAILER PERMIT REQUIRED; COMPLIANCE WITH OTHER LAWS.

(A) TOBACCO RETAILER'S PERMIT REQUIRED. No person shall act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's permit pursuant to this article for each location at which such activity is to occur.

(B) DISPLAY OF PERMITS. Each tobacco retailer permit shall be posted in a conspicuous public location at the place of business for which the permit has been issued.

(C) LAWFUL BUSINESS OPERATION. A business tax certificate shall be obtained pursuant to section 11-4 of this code before any permit is issued pursuant to this section. The issuance of a permit shall not eliminate compliance with any other requirements, including the requirement for another permit, certificate or clearance, imposed by any other local, State, or federal rule, regulation, or law.

SEC. 11-372. TERM; FEES.

(A) A tobacco retailer permit shall be valid for 12 months from the date of issuance or as indicated on the permit and shall specify the location where tobacco retailing may be held.

(B) Fees for such permits shall be established by resolution of the city council.

SEC. 11-373. RESTRICTIONS.

(A) POSITIVE IDENTIFICATION REQUIRED. No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of 27 years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.

(B) MINIMUM CLERK AGE. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.

(C) SELF SERVICE DISPLAYS PROHIBITED. Tobacco retailing by means of a self-service display is prohibited.

(D) DISPLAY OF TOBACCO PRODUCTS WITHOUT A PERMIT. A tobacco retailer or proprietor without a valid tobacco retailer permit, including, a person whose license has been suspended or revoked, shall keep all tobacco products out of public view. Advertisements relating to tobacco products or tobacco paraphernalia that promote the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location shall not be displayed.

(E) ON-SITE SALES. All sales of tobacco products shall be conducted in-person at the permitted location. It shall be a violation of this article for any tobacco retailer or any of the tobacco retailer’s agents or employees to deliver tobacco products or to knowingly or recklessly sell tobacco products to any person that intends to deliver the tobacco product. For purposes of this subsection, “deliver” means the commercial transfer of tobacco products to a person at a location not permitted pursuant to this article.

SEC. 11-374. SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED.

(A) It shall be unlawful for any retailer to sell or offer for sale any flavored tobacco product.

(B) There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored tobacco products, including, but not limited to, individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to Sell or offer for Sale.

SEC. 11-375. TOBACCO PRODUCT PRICING AND PACKAGING.

(A) PACKAGING AND LABELING. No tobacco retailer shall sell any tobacco product to any person unless such product: (1) is sold in the original manufacturer's packaging intended for sale; and (2) conforms to all applicable federal labeling requirements.

(B) DISPLAY OF PRICE. The price of each tobacco product offered for sale shall be clearly and conspicuously displayed to indicate the price of the product.

(C) PROHIBITION OF TOBACCO COUPONS AND DISCOUNTS. No tobacco retailer shall:

(1) Honor or redeem, or offer to honor or redeem, a coupon to allow a person to purchase a tobacco product for less than the full retail price;

(2) Sell any tobacco product to a person through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or

(3) Provide any free or discounted item to a person in consideration for the purchase of any tobacco product.

(D) MINIMUM PACKAGE SIZE FOR LITTLE CIGARS AND CIGARS. No tobacco retailer shall sell to a person:

(1) Any little cigar unless it is sold in a package of at least 20 little cigars, or any cigar unless it is sold in a package of at least six cigars; or

(2) The restriction in subsection D(1) shall not be a cigar that has a price of at least [$5] per cigar, including all applicable taxes and fees.

SEC. 11-376. PERMIT APPLICATION PROCEDURES.

(A) An application for a tobacco retailer permit shall be submitted on a form supplied by the collector, signed by each proprietor or an authorized agent thereof, and shall contain the following information:

(1) The name, title, address, and telephone number of each proprietor of the business seeking a permit.

(2) The business name, address, and telephone number of the single fixed location for which a permit is sought.

(3) A single name and mailing address authorized by each proprietor to receive all communications and notices required by, authorized by, or convenient to the enforcement of this article.

(4) Proof that the location for which a tobacco retailer permit is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization, if applicable.

(5) The dates and locations of any admitted violations of this article or of any tobacco permit requirement by any proprietor or any agent of the proprietor and the dates and locations of any violations of this article or of any tobacco pe1mit requirement found to have been committed by any proprietor or any agent of the proprietor within the previous five years.

(6) Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this article, and if so, the dates and locations of all such violations within the previous five years.

(7) Such other information as the collector deems necessary for the administration or enforcement of this article as specified on the application form required by this section.

(B) A permitted tobacco retailer shall inform the collector in writing of any change in the information submitted on an application for a tobacco retailer permit within 10 business days of such change.

(C) All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (Cal. Govt. Code section 6250 et seq.) or any other applicable law.

SEC. 11-377. ISSUANCE OF A PERMIT.

Upon receipt of a completed application for a tobacco retailer permit and the applicable permit fee, the collector shall issue a permit, after receiving input from appropriate city departments, unless substantial evidence demonstrates that one or more of the following bases for denial exists:

(A) The information presented in the application is inaccurate or false.

(B) The application seeks authorization for tobacco retailing at a location for which this article prohibits issuance of tobacco retailer permits.

(C) The application seeks authorization for tobacco retailing for a proprietor to whom this article prohibits a permit to be issued.

(D) The application seeks authorization for tobacco retailing that is prohibited pursuant to this article, that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.

SEC. 11-378. PERMIT RENEWAL AND EXPIRATION.

(A) A tobacco retailer's permit is invalid if the appropriate fee has not been timely paid in full or if the term of the permit has expired. The term of a tobacco retailer permit is 12 months. An application for the renewal of a tobacco retailer permit shall be submitted to the collector, along with the permit renewal fee as established by resolution of the city council, no later than 30 days prior to the expiration of the permit.

(B) A tobacco retailer permit that is not timely renewed shall expire at the end of its term. To renew a permit not timely renewed pursuant to subsection (A) of this section, the proprietor(s) must provide the following:

(1) An application for a new tobacco retailer permit along with the new application permit fee as established by resolution of the city council; and

(2) A signed affidavit affirming that the tobacco retailer:

(i) has not sold and will not sell any tobacco product after the permit expiration date and before a new permit is issued; or

(ii) has waited the appropriate ineligibility period established for tobacco retailing without a permit, as set forth in section 11-382 of this code, before seeking a new permit.

SEC. 11-379. PERMITS NON TRANSFERABLE.

(A) A tobacco retailer permit may not be transferred from one person to another or from one location to another.

(B) A new tobacco retailer permit is required when a tobacco retailing location has a change in ownership.

(C) Notwithstanding any other provision of this article, prior violations at a location shall continue to be counted against a location and permit ineligibility periods shall continue to apply to a location unless:

(1) The location has been fully transferred to a new owner or fully transferred to entirely new owners; and

(2) The new owner or owners provide the collector with clear and convincing evidence that the new owner or owners have acquired or are acquiring the location in an arm's length transaction.

SEC. 11-380. FEE FOR PERMIT.

The fee to issue or to renew a tobacco retailer's permit shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the cost of administration and enforcement of this article, including, for example, issuing a permit,

administering the permitting program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this article. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

SEC. 11-381. MODIFICATION, SUSPENSION, OR REVOCATION OF PERMIT.

(A) In addition to any other penalty authorized by law, a tobacco retailer permit may be suspended revoked by the collector, after notice and an opportunity to be heard as set forth in chapter 1, article V of this code, for failure of the permittee, or any of the permittee's agents or employees, to comply with applicable local, state, or federal rules, regulations, or laws concerning tobacco retailing, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.

(B) Any person, including a city officer or employee, may file with the collector a written request for revocation, suspension, or modification of a tobacco retailer permit, stating facts showing that the permittee, or any of the permittee's agents or employees, failed to comply with applicable rules, laws, regulations, or permit conditions.

(C) If the request is filed by a city officer or employee on behalf of a city department, the request shall be accompanied by a written report, stating wherein the permittee, or any of the permittee's agents or employees, has not complied with applicable rules, laws, regulations, or permit conditions and recommending that the tobacco retailer permit be revoked, suspended, or in what respect the permit should be modified.

(D) Based on the preponderance of the evidence, if the collector finds the tobacco retailer or any of the tobacco retailer’s employees or agents has violated any of the requirements, conditions, or prohibitions of this article, the collector may take the following actions:

(i) Upon a finding by the collector of a first violation of this article at a location within any [five-year] period, the permit may be suspended for up to [30] days.
(ii) Upon a finding by the collector of a second violation of this article at a location within any [five-year] period, the license may be suspended for up to [90] days.
(iii) Upon a finding by the collector of a third violation of this article at a location within any [five-year] period, the license may be suspended for up to [one] year.
(iv) Upon a finding by the Department of four or more violations of this article at a location within any [five-year] period, the license may be revoked.

SEC. 11-382. TOBACCO RETAILING WITHOUT A PERMIT.

(A) In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the collector finds based on a preponderance of evidence, after notice and an opportunity to be heard as set forth in chapter 1, article V of this code, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer permit, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailing permit as follows:

(1) After a first violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until 30 days have passed from the date of the violation.

(2) After a second violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until 90 days have passed from the date of violation.

(3) After a third or subsequent violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until one year has passed from the date of the violation.

(B) Tobacco products offered for sale or exchange in violation of this section are subject to seizure by the collector or any peace officer and shall be forfeited after the permittee and any other owner of the tobacco products seized is given reasonable notice and an opportunity to demonstrate, as set forth in article V of chapter 1 of this code, that the tobacco products were not offered for sale or exchange in violation of this article. Forfeited tobacco products and shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to California Code of Civil Procedure section 1094.6 or other applicable law has expired without the filing of a lawsuit, or if such a suit is final, after judgment in that suit becomes final.

(C) For the purposes of the civil remedies provided in this article:

(1) Each day on which a tobacco product is offered for sale in violation of this article shall constitute a separate violation of this article; and

(2) Each individual retail tobacco product and each individual retail item that is distributed, sold, or offered for sale in violation of this article shall constitute a separate violation of this article.

SEC.11-383. ENFORCEMENT.

(A) The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.

(B) Whenever evidence of a violation of this article is obtained in any part through the participation of a person under the age of eighteen (18) years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this article and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(C) Violations of this article are hereby declared to be public nuisances.

(D) In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

SEC.11-384. SEVERABILITY

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision. "

Part 2. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one of more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Part 3. The City Council determines and finds that this ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Part 4. Pursuant to Cal. Gov. Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the ordinance.

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Part 5. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. _____ was first read on _____, 2019, and finally adopted on _____, 2019, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD
ORDINANCE NO.

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, AMENDING CHAPTER 11 ARTICLE XIV OF THE CITY CODE CONCERNING TOBACCO RETAILER PERMITS

WHEREAS, the California Legislature recognizes the danger of tobacco use and has made reducing youth access to tobacco products a high priority; and

WHEREAS, State law explicitly permits cities and counties to enact local tobacco retail licensing ordinances and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, flavorings in tobacco products make them more appealing to young people, masking the harshness of cigarette smoke and nicotine; and

WHEREAS, over 80 percent of young people who use tobacco products report starting with a flavored product; and

WHEREAS, a California Healthy Kids Survey 2017-18 for Oxnard Union High School District found that 11 % of 9th graders, 9% of 11th graders and 22% of Non-Traditional school students have used an e-cigarette in the past 30 days; and

WHEREAS, on November 20, 2019, the American Medical Association called for a total ban of non-Food and Drug Administration approved vaping products; and

WHEREAS, the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City of Oxnard.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Part 1. City Code Amendment. Article XIV to Chapter 11 of the Oxnard City Code is hereby amended to read as follows:

"**ARTICLE XIV. TOBACCO RETAILERS**

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(A) ARM'S LENGTH TRANSACTION - A sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of the article is not an arm's length transaction.

(B) ~~COLLECTOR - The city treasurer or designee.~~ CIGAR – Any roll of tobacco other than cigarettes wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand.

(C) ~~PERSON - Any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.~~ CIGARETTE – (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described herein.

(D) ~~PROPRIETOR - A person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.~~ COLLECTOR - The city treasurer or designee.

(E) ~~SELF-SERVICE DISPLAY - The open display or storage of tobacco products or tobacco paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.~~ ELECTRONIC SMOKING DEVICE – Any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(F) ~~SMOKING - Possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind) and the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind).~~ FLAVORED TOBACCO PRODUCT - Any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

(G) ~~TOBACCO PARAPHERNALIA - Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.~~ LITTLE CIGAR – Any roll of tobacco other than cigarettes wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand. Little cigar includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

(H) ~~TOBACCO PRODUCT - Any substance containing tobacco leaf, including but not limited to cigarettes, e-cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.~~ PERSON -Any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(I) ~~TOBACCO RETAILER - Any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia.~~ PROPRIETOR- A person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

(J) ~~TOBACCO RETAILING - Selling, offering for sale, or exchanging or offering to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.~~ SALE or SELL – means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

(K) SELF-SERVICE DISPLAY -The open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service-display.

(L) TOBACCO PRODUCT- means:

(1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

(2) any electronic smoking device as defined in this article and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(3) any component, part, or accessory of 1) or 2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.

"Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(M) TOBACCO RETAILER - Any person who sells, offers for sale, exchanges or offers to exchange for any form of consideration tobacco products.

(N) TOBACCO RETAILING - Selling, offering for sale, or exchanging or offering to exchange for any form of consideration tobacco products without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.

SEC. 11-371. TOBACCO RETAILER PERMIT REQUIRED; COMPLIANCE WITH OTHER LAWS.

(A) TOBACCO RETAILER'S PERMIT REQUIRED. No person shall act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's permit pursuant to this article for each location at which such activity is to occur.

(B) DISPLAY OF PERMITS. Each tobacco retailer permit shall be posted in a conspicuous public location at the place of business for which the permit has been issued.

(C) LAWFUL BUSINESS OPERATION. A business tax certificate shall be obtained pursuant to section 11-4 of this code before any permit is issued pursuant to this section. The issuance of a permit shall not eliminate compliance with any other requirements, including the requirement for another permit, certificate or clearance, imposed by any other local, State, or federal rule, regulation, or law.

SEC. 11-372. TERM; FEES.

(A) A tobacco retailer permit shall be valid for 12 months from the date of issuance or as indicated on the permit and shall specify the location where tobacco retailing may be held.

(B) Fees for such permits shall be established by resolution of the city council.

SEC. 11-373. RESTRICTIONS.

(A) POSITIVE IDENTIFICATION REQUIRED. No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of 27 years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.

(B) MINIMUM CLERK AGE. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.

(C) SELF SERVICE DISPLAYS PROHIBITED. Tobacco retailing by means of a self-service display is prohibited.

(D) ~~A tobacco retailer or proprietor without a valid tobacco retailer permit shall comply with the following requirements:~~

~~(1) All tobacco products and tobacco paraphernalia shall be kept out of public view.~~
~~(2) Advertisements relating to tobacco products or tobacco paraphernalia that promote the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location shall not be displayed.~~ DISPLAY OF TOBACCO PRODUCTS WITHOUT A PERMIT. A tobacco retailer or proprietor without a valid tobacco retailer permit, including, a person whose license has been suspended or revoked, shall keep all tobacco products out of public view. Advertisements relating to tobacco products or tobacco paraphernalia that promote the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location shall not be displayed.

(E) ~~Tobacco retailing at other than a fixed location is prohibited.~~ ON-SITE SALES. All sales of tobacco products shall be conducted in-person at the permitted location. It shall be a violation of this article for any tobacco retailer or any of the tobacco retailer's agents or employees to deliver tobacco products or to knowingly or recklessly sell tobacco products to any person that intends to deliver the tobacco product. For purposes of this subsection, "deliver" means the commercial transfer of tobacco products to a person at a location not permitted pursuant to this article.

SEC. 11-374. ~~PERMIT APPLICATION PROCEDURES.~~ SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED.

~~(A) An application for a tobacco retailer permit shall be submitted on a form supplied by the collector, signed by each proprietor or an authorized agent thereof, and shall contain the following information:~~
~~(1) The name, title, address, and telephone number of each proprietor of the business seeking a permit.~~

~~(2) The business name, address, and telephone number of the single fixed location for which a permit is sought.~~

~~(3) A single name and mailing address authorized by each proprietor to receive all communications and notices required by, authorized by, or convenient to the enforcement of this article.~~

~~(4) Proof that the location for which a tobacco retailer permit is sought has been issued a valid State tobacco retailer's license by the California Board of Equalization, if applicable.~~

~~(5) The dates and locations of any admitted violations of this article or of any tobacco permit requirement by any proprietor or any agent of the proprietor and the dates and locations of any violations of this article or of any tobacco permit requirement found to have been committed by any proprietor or any agent of the proprietor within the previous five years.~~

~~(6) Such other information as the collector deems necessary for the administration or enforcement of this article as specified on the application form required by this section.~~

~~(B) A permitted tobacco retailer shall inform the collector in writing of any change in the information submitted on an application for a tobacco retailer permit within ten business days of such change.~~

(A) It shall be unlawful for any retailer to sell or offer for sale any flavored tobacco product.

(B) There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored tobacco products, including, but not limited to, individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to Sell or offer for Sale.

SEC. 11-375. ~~ISSUANCE OF PERMIT.~~ TOBACCO PRODUCT PRICING AND PACKAGING

~~Upon receipt of a completed application for a tobacco retailer permit and the applicable permit fee, the collector shall issue a permit, after receiving input from appropriate city departments, unless substantial evidence demonstrates that one or more of the following bases for denial exists:~~

~~(A) The information presented in the application is inaccurate or false.~~

~~(B) The application seeks authorization for tobacco retailing at a location for which this article prohibits issuance of tobacco retailer permits. This subsection shall not constitute a basis for denial of a permit if the applicant provides to the collector documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction.~~

~~(C) The application seeks authorization for tobacco retailing for a proprietor to whom this article prohibits a permit to be issued.~~

~~(D) The application seeks authorization for tobacco retailing that is prohibited pursuant to this article, that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.~~

(A) PACKAGING AND LABELING. No tobacco retailer shall sell any tobacco product to any person unless such product: (1) is sold in the original manufacturer's packaging intended for sale; and (2) conforms to all applicable federal labeling requirements.

(B) DISPLAY OF PRICE. The price of each tobacco product offered for sale shall be clearly and conspicuously displayed to indicate the price of the product.

(C) PROHIBITION OF TOBACCO COUPONS AND DISCOUNTS. No tobacco retailer shall:

(1) Honor or redeem, or offer to honor or redeem, a coupon to allow a person to purchase a tobacco product for less than the full retail price;

(2) Sell any tobacco product to a person through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or

(3) Provide any free or discounted item to a person in consideration for the purchase of any tobacco product.

(D) MINIMUM PACKAGE SIZE FOR LITTLE CIGARS AND CIGARS. No tobacco retailer shall sell to a person:

(1) Any little cigar unless it is sold in a package of at least 20 little cigars, or any cigar unless it is sold in a package of at least six cigars; or

(2) The restriction in subsection D(1) shall not be a cigar that has a price of at least [$5] per cigar, including all applicable taxes and fees.

SEC. 11-376. ~~PERMIT RENEWAL.~~ PERMIT APPLICATION PROCEDURES

~~(A) An application for the renewal of a tobacco retailer permit shall be submitted to the collector, along with the permit renewal fee as established by resolution of the city council, no later than 30 days prior to the expiration of the permit.~~

~~(B) A tobacco retailer permit that is not timely renewed shall expire at the end of its term. To renew a permit not timely renewed pursuant to subsection (A) of this section, the proprietor(s) must provide the following:~~

~~(1) An application for a new tobacco retailer permit along with the new application permit fee as established by resolution of the city council; and~~

~~(2) A signed affidavit affirming that the proprietor has not sold and will not sell any tobacco product or tobacco paraphernalia after the permit expiration date and before a new permit is issued or has waited the appropriate ineligibility period established for tobacco retailing without a permit, as set forth in section 11-379 of this code, before seeking a new permit.~~

(A) An application for a tobacco retailer permit shall be submitted on a form supplied by the collector, signed by each proprietor or an authorized agent thereof, and shall contain the following information:

(1) The name, title, address, and telephone number of each proprietor of the business seeking a permit.

(2) The business name, address, and telephone number of the single fixed location for which a permit is sought.

(3) A single name and mailing address authorized by each proprietor to receive all communications and notices required by, authorized by, or convenient to the enforcement of this article.

(4) Proof that the location for which a tobacco retailer permit is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization, if applicable.

(5) The dates and locations of any admitted violations of this article or of any tobacco permit requirement by any proprietor or any agent of the proprietor and the dates and locations of any violations of this article or of any tobacco pe1mit requirement found to have been committed by any proprietor or any agent of the proprietor within the previous five years.

(6) Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this article, and if so, the dates and locations of all such violations within the previous five years.

(7) Such other information as the collector deems necessary for the administration or enforcement of this article as specified on the application form required by this section.

(B) A permitted tobacco retailer shall inform the collector in writing of any change in the information submitted on an application for a tobacco retailer permit within 10 business days of such change.

(C) All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (Cal. Govt. Code section 6250 et seq.) or any other applicable law.

SEC. 11-377. ~~**PERMITS NONTRANSFERABLE.**~~ **ISSUANCE OF A PERMIT.**

~~(A) A tobacco retailer permit may not be transferred from one person to another or from one location to another.~~

~~(B) A new tobacco retailer permit is required when a tobacco retailing location has a change in proprietor.~~

~~(C) Notwithstanding any other provision of this article, prior violations at a location shall continue to be counted against a location and permit ineligibility periods shall continue to apply to a location unless:~~

~~(1) The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and~~

~~(2) The new proprietor or proprietors provide the collector with clear and convincing evidence that the new proprietor or proprietors have acquired or are acquiring the location in an arm's length transaction.~~

Upon receipt of a completed application for a tobacco retailer permit and the applicable permit fee, the collector shall issue a permit, after receiving input from appropriate city departments, unless substantial evidence demonstrates that one or more of the following bases for denial exists:

(A) The information presented in the application is inaccurate or false.

(B) The application seeks authorization for tobacco retailing at a location for which this article prohibits issuance of tobacco retailer permits.

(C) The application seeks authorization for tobacco retailing for a proprietor to whom this article prohibits a permit to be issued.

(D) The application seeks authorization for tobacco retailing that is prohibited pursuant to this article, that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.

SEC. 11-378. ~~MODIFICATION, SUSPENSION, OR REVOCATION OF PERMIT.~~ PERMIT RENEWAL AND EXPIRATION.

~~(A) In addition to any other penalty authorized by law, a tobacco retailer permit may be modified, suspended, or revoked by the collector, after notice and an opportunity to be heard as set forth in article V of chapter 1 of this code, for failure of the permittee, or any of the permittee's agents or employees, to comply with applicable local, State, or federal rules, regulations, or laws concerning tobacco retailing, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.~~

~~(B) Any person, including a city officer or employee, may file with the collector a written request for revocation, suspension, or modification of a tobacco retailer permit, stating facts showing that the permittee, or any of the permittee's agents or employees, failed to comply with applicable rules, laws, regulations, or permit conditions.~~

~~(C) If the request is filed by a city officer or employee on behalf of a city department, the request shall be accompanied by a written report, stating wherein the permittee, or any of the permittee's agents or employees, has not complied with applicable rules, laws, regulations, or~~

~~permit conditions and recommending that the tobacco retailer permit be revoked, suspended, or in what respect the permit should be modified.~~

~~(D) After revocation, no new permit may issue for the same location until the following time:~~

~~(1) Thirty days from the date of revocation for a first violation at a location within any five year period.~~

~~(2) Sixty days from the date of revocation for a second violation at a location within any five year period.~~

~~(3) Ninety days from the date of revocation for a third violation at a location within any five year period.~~

~~(4) One year from the date of revocation for a fourth or any subsequent violation at a location within any five year period.~~

~~(E) A tobacco retailer permit shall be revoked if the collector finds, after the permittee is afforded notice and an opportunity to be heard as set forth in article V of chapter 1 of this code, that one or more of the bases for denial of a permit under section 11-375 of this code existed at the time application was made or at any time before the permit issued. The decision by the collector shall be final.~~

(A) A tobacco retailer's permit is invalid if the appropriate fee has not been timely paid in full or if the term of the permit has expired. The term of a tobacco retailer permit is 12 months. An application for the renewal of a tobacco retailer permit shall be submitted to the collector, along with the permit renewal fee as established by resolution of the city council, no later than 30 days prior to the expiration of the permit.

(B) A tobacco retailer permit that is not timely renewed shall expire at the end of its term. To renew a permit not timely renewed pursuant to subsection (A) of this section, the proprietor(s) must provide the following:

(1) An application for a new tobacco retailer permit along with the new application permit fee as established by resolution of the city council; and

(2) A signed affidavit affirming that the tobacco retailer:

(i) has not sold and will not sell any tobacco product after the permit expiration date and before a new permit is issued; or

(ii) has waited the appropriate ineligibility period established for tobacco retailing without a permit, as set forth in section 11-382 of this code, before seeking a new permit.

SEC. 11-379. ~~TOBACCO RETAILING WITHOUT A PERMIT.~~ PERMITS NON TRANSFERABLE.

~~(A) In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the collector finds based on a preponderance of evidence, after notice and an opportunity to be heard as set forth in article V of chapter 1 of this code, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer permit, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailing permit as follows:~~

~~(1) After a first violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until 30 days have passed from the date of the violation.~~

~~(2) After a second violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until 90 days have passed from the date of violation.~~

~~(3) After a third or subsequent violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until one year has passed from the date of the violation.~~

~~(B) Tobacco products and/or tobacco paraphernalia offered for sale or exchange in violation of this section are subject to seizure by the collector or any peace officer and shall be forfeited after the permittee and any other owner of the tobacco products and/or tobacco paraphernalia seized is given reasonable notice and an opportunity to demonstrate, as set forth in article V of chapter 1 of this code, that the tobacco products and/or tobacco paraphernalia were not offered for sale or exchange in violation of this article. Forfeited tobacco products and/or tobacco paraphernalia shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to Cal. Code of Civil Procedure, Section 1094.6 or other applicable law has expired without the filing of a lawsuit, or if such a suit is final, after judgment in that suit becomes final.~~

(A) A tobacco retailer permit may not be transferred from one person to another or from one location to another.

(B) A new tobacco retailer permit is required when a tobacco retailing location has a change in ownership.

(C) Notwithstanding any other provision of this article, prior violations at a location shall continue to be counted against a location and permit ineligibility periods shall continue to apply to a location unless:

(1) The location has been fully transferred to a new owner or fully transferred to entirely new owners; and

(2) The new owner or owners provide the collector with clear and convincing evidence that the new owner or owners have acquired or are acquiring the location in an arm's length transaction.

SEC. 11-380. ~~ENFORCEMENT.~~ FEE FOR PERMIT.

~~(A) The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.~~

~~(B) Whenever evidence of a violation of this article is obtained in any part through the participation of a person under the age of 18 years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this article and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.~~

~~(C) Violations of this article are hereby declared to be public nuisances.~~

~~(D) In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the city attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.~~

The fee to issue or to renew a tobacco retailer's permit shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the cost of administration and enforcement of this article, including, for example, issuing a permit, administering the permitting program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this article. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

SEC. 11-381. MODIFICATION, SUSPENSION, OR REVOCATION OF PERMIT.

(A) In addition to any other penalty authorized by law, a tobacco retailer permit may be suspended revoked by the collector, after notice and an opportunity to be heard as set forth in chapter 1, article V of this code, for failure of the permittee, or any of the permittee's agents or employees, to comply with applicable local, state, or federal rules, regulations, or laws concerning tobacco retailing, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.

(B) Any person, including a city officer or employee, may file with the collector a written request for revocation, suspension, or modification of a tobacco retailer permit, stating

facts showing that the permittee, or any of the permittee's agents or employees, failed to comply with applicable rules, laws, regulations, or permit conditions.

(C) If the request is filed by a city officer or employee on behalf of a city department, the request shall be accompanied by a written report, stating wherein the permittee, or any of the permittee's agents or employees, has not complied with applicable rules, laws, regulations, or permit conditions and recommending that the tobacco retailer permit be revoked, suspended, or in what respect the permit should be modified.

(D) Based on the preponderance of the evidence, if the collector finds the tobacco retailer or any of the tobacco retailer's employees or agents has violated any of the requirements, conditions, or prohibitions of this article, the collector may take the following actions:

(i) Upon a finding by the collector of a first violation of this article at a location within any [five-year] period, the permit may be suspended for up to [30] days.
(ii) Upon a finding by the collector of a second violation of this article at a location within any [five-year] period, the license may be suspended for up to [90] days.
(iii) Upon a finding by the collector of a third violation of this article at a location within any [five-year] period, the license may be suspended for up to [one] year.
(iv) Upon a finding by the Department of four or more violations of this article at a location within any [five-year] period, the license may be revoked.

SEC. 11-382. TOBACCO RETAILING WITHOUT A PERMIT.

(A) In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the collector finds based on a preponderance of evidence, after notice and an opportunity to be heard as set forth in chapter 1, article V of this code, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer permit, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailing permit as follows:

(1) After a first violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until 30 days have passed from the date of the violation.

(2) After a second violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the business at the location has been transferred in an arm's length transaction, until 90 days have passed from the date of violation.

(3) After a third or subsequent violation of this section at a location within any five year period, no new permit may issue for the person or the location, unless ownership of the

business at the location has been transferred in an arm's length transaction, until one year has passed from the date of the violation.

(B) Tobacco products offered for sale or exchange in violation of this section are subject to seizure by the collector or any peace officer and shall be forfeited after the permittee and any other owner of the tobacco products seized is given reasonable notice and an opportunity to demonstrate, as set forth in article V of chapter 1 of this code, that the tobacco products were not offered for sale or exchange in violation of this article. Forfeited tobacco products and shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to California Code of Civil Procedure section 1094.6 or other applicable law has expired without the filing of a lawsuit, or if such a suit is final, after judgment in that suit becomes final.

(C) For the purposes of the civil remedies provided in this article:

(1) Each day on which a tobacco product is offered for sale in violation of this article shall constitute a separate violation of this article; and

(2) Each individual retail tobacco product and each individual retail item that is distributed, sold, or offered for sale in violation of this article shall constitute a separate violation of this article.

SEC.11-383. ENFORCEMENT.

(A) The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.

(B) Whenever evidence of a violation of this article is obtained in any part through the participation of a person under the age of eighteen (18) years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this article and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(C) Violations of this article are hereby declared to be public nuisances.

(D) In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

SEC.11-384. SEVERABILITY

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision. “

Part 2. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one of more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Part 3. The City Council determines and finds that this ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Part 4. Pursuant to Cal. Gov. Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the ordinance.

Part 5. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. _____ was first read on _____, 2019, and finally adopted on _____, 2019, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Tim Flynn, Mayor

ATTEST:

_____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

ITEM #M-2

PRESS RELEASES

AMA calls for total ban on all vaping products not approved by FDA

NOVEMBER 19, 2019

SAN DIEGO — In the wake of the recent lung illness outbreak linked to more than 2,000 illnesses and over 40 deaths across the country and a spike in youth e-cigarette use, the American Medical Association (AMA) today called for a total ban on all e-cigarette and vaping products that do not meet Food and Drug Administration (FDA) approval as cessation tools. At the Interim Meeting of the AMA House of Delegates, physicians, residents, and medical students from across the country voted to adopt policies on the AMA's longtime efforts to prevent another generation from becoming dependent on nicotine.

The new policies include:

- Urgently advocate for regulatory, legislative, and/or legal action at the federal and/or state levels to ban the sale and distribution of all e-cigarette and vaping products, with the exception of those approved by the FDA for tobacco cessation purposes and made available by prescription only;
- Advocate for research funding to study the safety and effectiveness of e-cigarette and vaping products for tobacco cessation purposes;
- Call for immediate and thorough study of the use of pharmacologic and non-pharmacologic treatment strategies for tobacco use disorder and nicotine dependence resulting from the use of non-combustible and combustible tobacco products in populations under the age of 18;
- Actively collaborate with health care professionals, particularly pharmacists and other health care team members, to persuade retail pharmacies to immediately cease sales of tobacco products;
- Advocate for diagnostic codes for e-cigarette and vaping associated illnesses, including pulmonary toxicity

"The recent lung illness outbreak has alarmed physicians and the broader public health community and shined a light on the fact that we have very little evidence about the short- and long-term health

consequences of e-cigarettes and vaping products," said AMA President Patrice A. Harris, M.D., M.A. "It's simple – we must keep nicotine products out of the hands of young people and that's why we are calling for an immediate ban on all e-cigarette and vaping products from the market. With the number of young people using e-cigarettes spiking it is not only critical that there is research into nicotine addiction treatments for this population, but it is imperative that we continue e. orts to prevent youth from ever using nicotine."

For the past five decades, the AMA has championed seminal anti-tobacco efforts, including prohibiting smoking in public places and on public transportation and airplanes, and calling on tobacco companies to stop targeting children in their advertising campaigns. In addition to the new policies above, the AMA has called on media organizations to reject advertising that markets e-cigarette products to young people, supported laws setting the minimum age for purchasing tobacco products, including e-cigarettes, at 21, and urged e-commerce CEOs to vigorously enforce their existing policies to keep illicit vaping products off their platforms.

"Since declaring e-cigarette use and vaping an urgent public health epidemic in 2018, the AMA has pushed for more stringent policies to help protect our nation's young people from the harmful effects of tobacco and nicotine use. For decades we have led the public health fight to combat the harmful effects of tobacco products, and we will continue to support policies and regulations aimed at preventing another generation from becoming dependent on nicotine," said Dr. Harris.

Click here to learn more about the AMA's work on these issues and e-cigarettes.

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kelly.jakubek@ama-assn.org

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ITEM #M-2

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AMA Press Center E-cigarettes & Tobacco AMA Policies

Interim Meeting of the AMA House of Delegates

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AMERICAN LUNG ASSOCIATION IN CALIFORNIA

Matrix of Local Ordinances Restricting the Sale of Flavored Tobacco Products

THE CENTER for Tobacco Policy & Organizing

© 2013 California Department of Public Health

MAY 2019

The tobacco industry has a long history of using flavored tobacco to target youth and communities of color. The majority of youth who start experimenting with tobacco begin with flavored tobacco.[1] These products come in a variety of candy-like flavors including bubble gum, grape, menthol and cotton candy and include e-cigarettes, hookah tobacco, cigars, smokeless tobacco, and even flavored accessories such as blunt wraps.

Since 2009, the United States Food and Drug Administration (FDA) has banned flavored cigarettes nationwide. However, this ban included an exemption for menthol flavored cigarettes and doesn't extend to non-cigarette tobacco products. There are currently no state laws in California restricting the sale of flavored tobacco products. It is up to local communities to take action to protect their youth from the lure of enticing flavored tobacco.

The first community to restrict the sale of flavored tobacco in California was Santa Clara County in 2010. Since then, thirty-five communities have passed similar policies.

What products may be included?

1. E-Cigarettes – Restricts the sale of flavored electronic cigarettes.

2. Menthol – Restricts the sale of tobacco products labelled as menthol, including cigarettes, smokeless tobacco, little cigars, etc.

3. Little Cigars – Restricts the sale of flavored little cigars, which are small, usually filtered cigars wrapped in brown paper containing tobacco leaf. Little cigars became a popular alternative following the FDA's ban on flavored cigarettes.

4. Smokeless Tobacco – Restricts the sale of flavored smokeless tobacco such as chewing tobacco, dip, snus and snuff.

5. Components & Accessories – Restricts the sale of flavored accessory products such as blunt wraps and e-juice additives. These products cannot be smoked alone and serve as a delivery system for smoked products.

6. Products Marketed as Flavored – Tobacco companies sometimes try to circumvent flavor restrictions by marketing products as flavored without directly labelling them as such. This policy option allows communities to broaden the definition of flavored tobacco to include these products.

What exemptions are allowed?

1. Adult-Only Stores Exempted – Adult-only retailers are limited to customers who are 21 and over. This limits sales of flavored tobacco to stores that youth do not have access to.

2. Grandfathered Retailers Exempted – Allows retailers that were in operation prior to a specifed date to continue selling flavored tobacco products.

3. Limited to Youth-Populated Areas – Retailers are required to be a certain distance away from schools, parks, or other youth-oriented locations. Since many flavored tobacco products target youth, including buffer zones is a way to limit their access to flavored products.

Resources

The Center has additional resources on tobacco retailer licensing ordinances, plug-in policies, and ordinances restricting menthol tobacco available at: http://center4tobaccopolicy.org/tobacco-policy/tobacco-retail-environment/ . ChangeLab Solutions has model ordinance language available for ordinances restricting flavored tobacco at: http://changelabsolutions.org.

The Center for Tobacco Policy & Organizing | American Lung Association in California
1531 I Street, Suite 201, Sacramento, CA 95814 | Phone: (916) 554.5864 | Fax: (916) 442.8585

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City/County Date Passed	Products Included						Exemptions		
	E-Cigs	Menthol	Little Cigars	Smokeless	Components & Accessories	Products marketed as flavored	Adult-Only Stores Exempted	Grandfathered Retailers Exempted?	Limited to Youth-Populated Areas?
San Carlos April 2019	X	X	X	X	X	X			
Larkspur April 2019	X	X	X	X	X	X			
Sacramento April 2019	X	X	X	X	X	X			
Albany April 2019	X	X	X	X	X	X			
Corte Madera March 2019	X	X	X	X	X	X			
Hermosa Beach Jan 2019	X	X	X	X	X	X	X		
San Pablo Dec 2018	X	X	X	X	X	X			
Alameda Nov 2018	X	X	X	X	X	X			
Santa Cruz Nov 2018	X	X	X	X	X	X			
Marin County Nov 2018	X	X	X	X	X	X			
Saratoga Oct 2018	X		X	X	X	X			
Half Moon Bay Oct 2018	X	X	X	X	X	X			
Portola Valley Sep 2018	X	X	X	X	X	X			
Beverly Hills August 2018	X	X	X	X	X	X			
Richmond July 2018	X	X	X	X	X	X			
Sausalito July 2018	X	X	X	X	X				
San Mateo County June 2018	X	X	X	X	X	X			
San Francisco June 2018	X	X	X	X	X	X			
Mono County July 2018	X								
Windsor March 2018	X		X**	X	X	X			

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City/County Date Passed	Products Included						Exemptions		
	E-Cigs	Menthol	Little Cigars	Smokeless	Components & Accessories	Products marketed as flavored	Adult-Only Stores Exempted	Grandfathered Retailers Exempted?	Limited to Youth-Populated Areas?
Cloverdale Dec 2017	X		X	X		X			
Fairfax Dec 2017	X		X**	X	X	X			
San Leandro Oct 2017	X		X	X	X	X			
Palo Alto Oct 2017	X	X	X	X	X	X	X		
Oakland Sep 2017	X	X	X	X	X	X	X		
Contra Costa County July 2017	X	X	X	X	X	X			X 1000 ft
Los Gatos May 2017	X	X	X	X	X	X	X		
Novato Jan 2017	X		X**	X	X	X			
Santa Clara County Oct 2016	X	X	X	X	X	X	X		
Yolo County Oct 2016	X	X	X	X	X				
Manhattan Beach Dec 2015	X		X	X	X	X	X		
El Cerrito Oct 2015	X	X*	X	X	X	X			
Berkeley Sep 2015	X	X	X	X	X	X			X 600 ft
Sonoma June 2015	X		X**	X	X	X			
Hayward July 2014	X	X*	X	X	X	X		X	X 500 ft

[1] Ambrose, B.K., et al., Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. JAMA,2015: p.1-3.

*Does not include menthol cigarettes

**Exempts packages of at least 5 or more

***Doesn't apply to pipe tobacco

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The Truth About Flavored Tobacco

The use of flavored tobacco products such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and e-liquids (used in e-cigarettes) has increased in recent years.[1] These products use **enticing flavors, colorful packaging and lower prices** to hook a new generation of tobacco users.

A Public Health Threat

Enticing Fruit and Candy Flavors

Sweet flavors like watermelon, cherry, chocolate, mint, and gummy bear **appeal to kids and teens.**[2]

Flavorings **mask the harsh taste of tobacco** which make it easier for youth to initiate tobacco use.[2]

Marketed to Young People

Flavored tobacco products often use the same flavoring chemicals as **popular brands** like Jolly Rancher, Kool-Aid, and Life Savers.[3]

Little cigars are often sold in small packages for **less than a dollar** and promoted as a low-cost alternative to cigarettes.[4,5]

Colorful packaging and placement near the register makes them highly visible and attractive to kids.[4]

Growing Teen Use

A majority of youth report flavoring as a leading reason for using tobacco products.[6] This includes:

- **82%** of e-cigarette users
- **79%** of hookah users
- **74%** of cigar users
- **69%** of smokeless users

80% of young people who have ever used tobacco **started with a flavored tobacco product.**[6]

Consequences for Our Youth

Long term addiction

The U.S. Surgeon General has warned that flavored tobacco products help new users establish habits that can **lead to long-term addiction.**[7]

Flavors like menthol in tobacco products make it **harder for users to quit.**[8]

Smokers who start at a younger age, are more likely to develop a **severe nicotine addiction.**[7]

Serious health risks

All nicotine products are addictive and increase the risk of developing **serious health problems.**[9]

Cancer

Heart Disease

Emphysema

The chemical Diacetyl, found in 75% of flavored e-liquids, is linked to bronchiolitis obliterans ("popcorn lung") which causes **irreversible lung damage.**[10,11]

Protecting Our Communities

The FDA has banned the sale of flavored cigarettes (other than menthol) because they appeal to youth. But flavored e-cigarettes, e-liquid, cigars, hookah, and chewing tobacco continue to be sold.

Prohibiting the sale of all flavored tobacco products is a critical step to preventing another generation of young people from living with a lifetime of addiction.

CDPH
California Department of
PublicHealth

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2. King, B.A., S.R. Dube, and M.A. Tynan, Flavored cigar smoking among US adults: findings from the 2009–2010 National Adult Tobacco Survey. Nicotine & Tobacco Research, 2013. 15(2): p.608-614.
3. Brown, J.E., et al., Candy flavorings in tobacco. New England Journal of Medicine, 2014. 370(23): p. 2250-2252.
4. Oregon Public Health Division, *Flavored Tobacco: Sweet, Cheap, and Within Kids' Reach, in CD Summary.* 2014, Oregon Health Authority: Oregon.
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6. Ambrose, B.K., et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014.* JAMA, 2015: p. 1-3.
7. U.S. Department of Health and Human Services, *Preventing tobacco use among youth and young adults: a report of the Surgeon General.* Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012. 3.
8. Delnevo, C.D., et al., *Smoking-cessation prevalence among US smokers of menthol versus non-menthol cigarettes.* American Journal of Preventive Medicine, 2011. 41(4): p. 357-365.
9. U.S. Food and Drug Administration, *Flavored Tobacco Product Fact Sheet.* 2011, U.S. Food and Drug Administration.
10. Joseph G. Allen, et al., Flavoring Chemicals in E-Cigarettes: Diacetyl, 2,3-Pentanedione, and Acetoin in a Sample of 51 Products, Including Fruit-, Candy-, and Cocktail-Flavored E-Cigarettes. Environmental Health Perspectives, 2015.
11. Farsalinos, K.E., et al., *Evaluation of electronic cigarette liquids and aerosol for the presence of selected inhalation toxins.* Nicotine & Tobacco Research, 2015. 17(2): p. 168-174.

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Flavored Tobacco Products and Youth

Gabe Teran
Operations Specialist
Ventura County Office of Education

Senior Officer Hannah Estrada
Oxnard Police Department

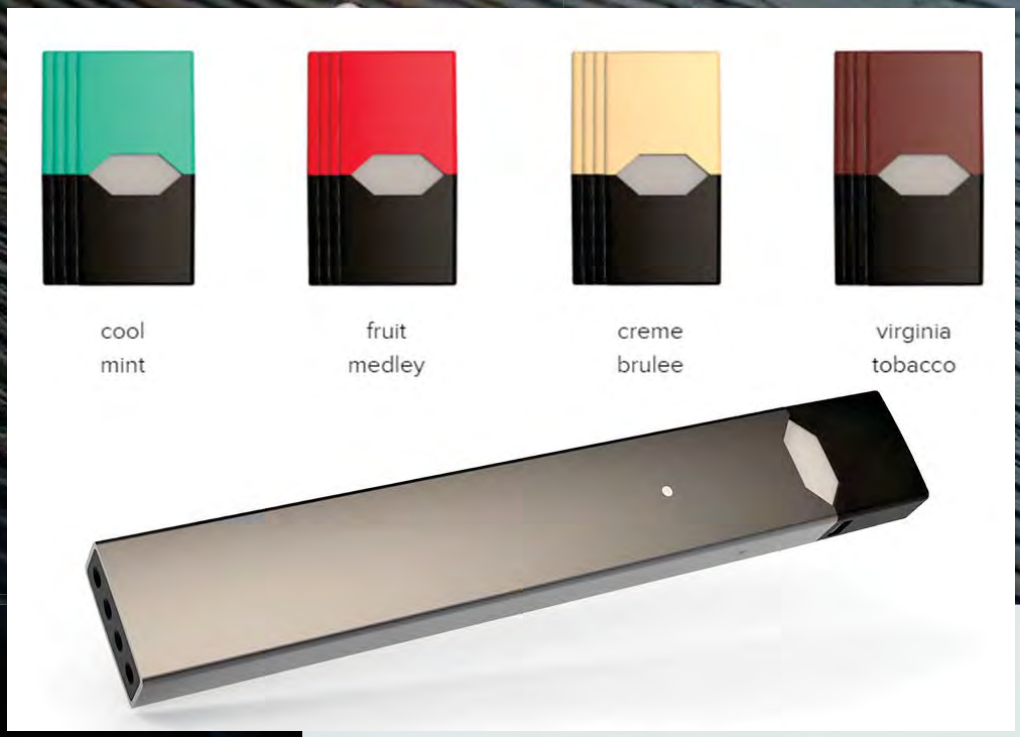
E-Cigarettes/Vapes/JUULs

- Battery powered devices that activate a heating coil which heats a liquid into an aerosol (not a vapor)
- Also considered a tobacco product even though they are filled with a liquid and not leaf tobacco
- There is no regulation on the devices or the juices

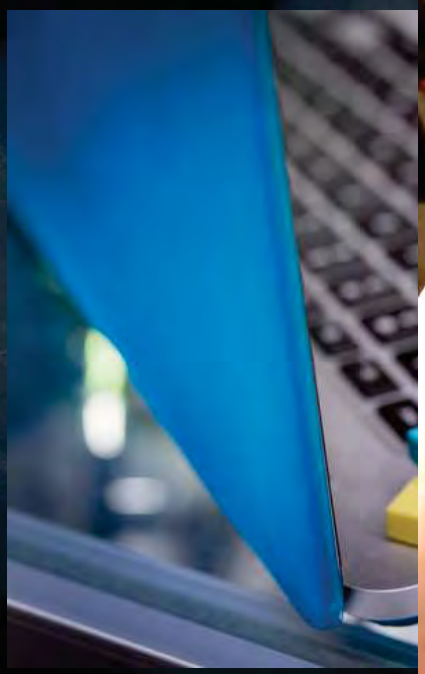
E-Cigarettes, Cigalikes, Vape Pens, Mods

Pod and Cartridge-Based Devices

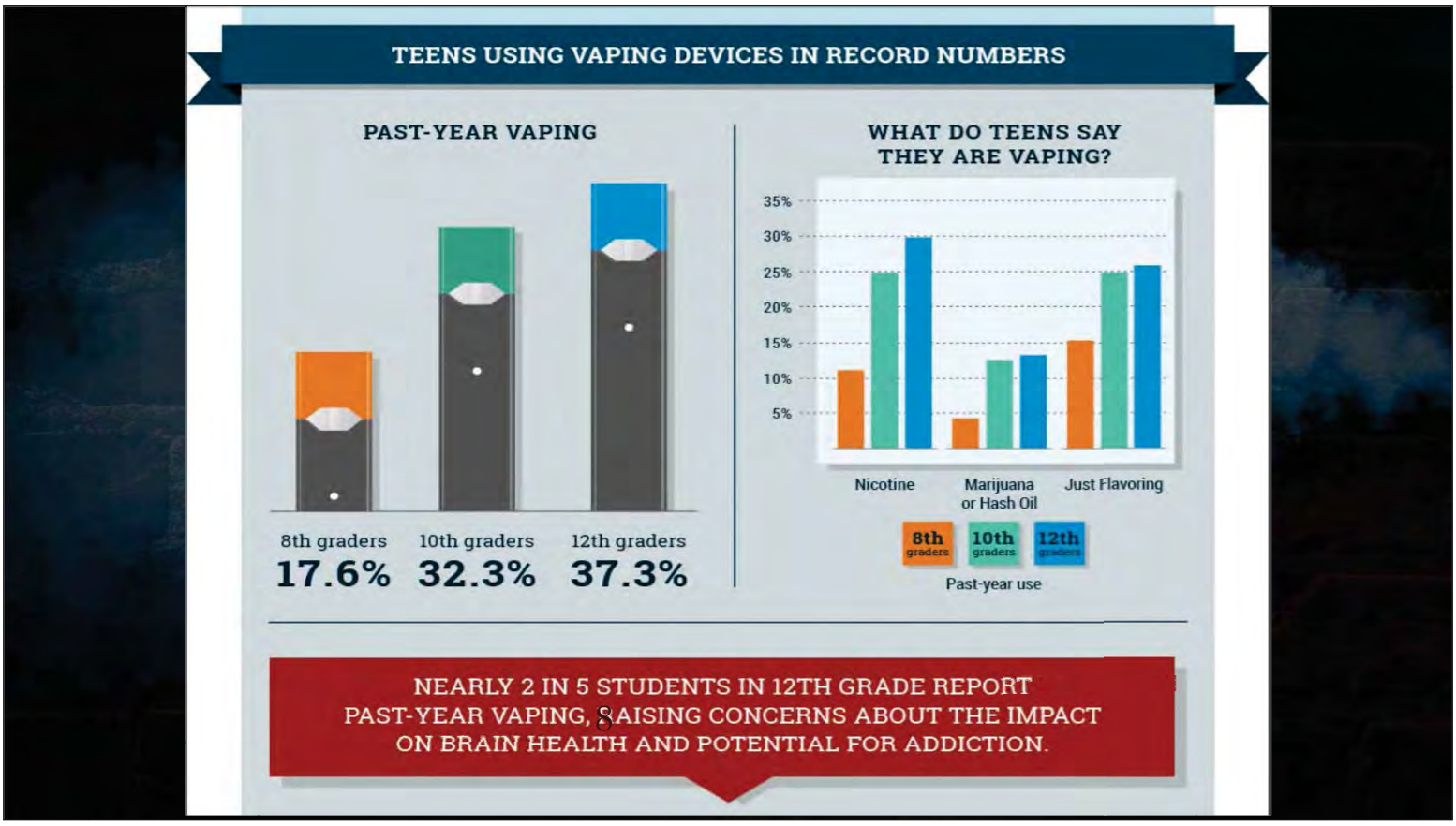
Emerging Products



Some Context



The cloud is aerosol, not water vapor
VENTURA COUNTY
BEHAVIORAL HEALTH
ALCOHOL & DRUG PROGRAMS


TEENS USING VAPING DEVICES IN RECORD NUMBERS
PAST-YEAR VAPING
8th graders 17.6%
10th graders 32.3%
12th graders 37.3%
WHAT DO TEENS SAY THEY ARE VAPING?
35%
30%
25%
20%
15%
10%
5%
Nicotine
Marijuana or Hash Oil
Just Flavoring
8th graders
10th graders
12th graders
Past-year use
NEARLY 2 IN 5 STUDENTS IN 12TH GRADE REPORT PAST-YEAR VAPING, RAISING CONCERNS ABOUT THE IMPACT ON BRAIN HEALTH AND POTENTIAL FOR ADDICTION.

Teens who vape are 3 times more likely to smoke cigarettes within a year.

Source: Journal of the American Medical Association

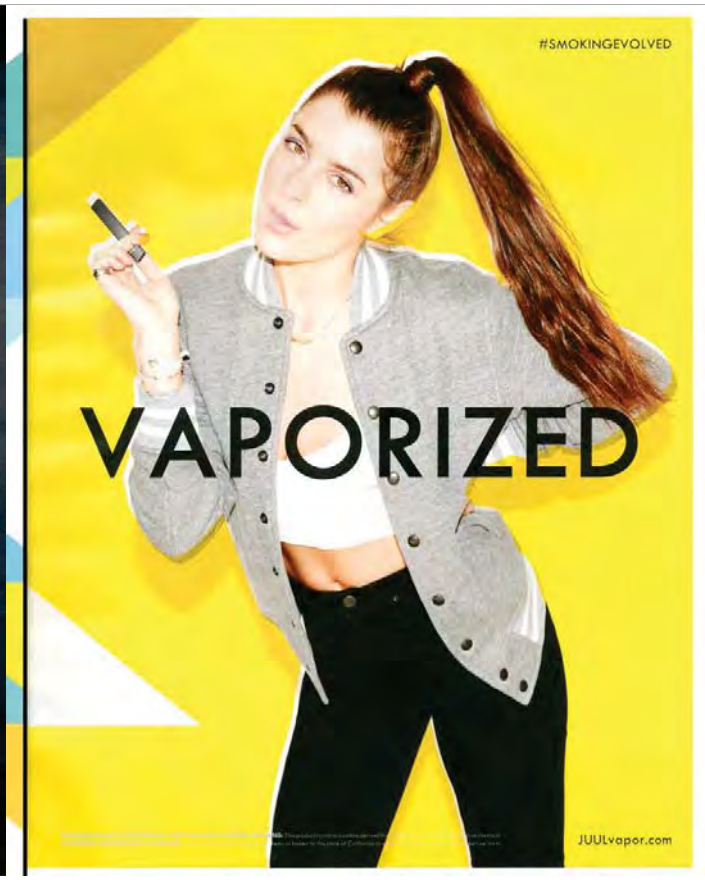
VENTURA COUNTY BEHAVIORAL HEALTH
ALCOHOL & DRUG PROGRAMS

Getting Youth Attention

- Bright Colors
- Sweet Flavors
- Cool Sounding/Easy to Remember Names

Skittles
ORIGINAL
NET WT 2.17 OZ 61.5g
MILK CHOCOLATE
Reese's
NET WT 1.5 OZ (42g)
2 PEANUT BUTTER CUPS
Lucky Charms
SUGAR-FROSTED OAT CEREAL WITH MARSHMALLOW BITS
7¢ COUPON
LUCKY CHARMS
PERSONALIZED PENCILS OFFER!
SEE PACKAGE BACK FOR DETAILS
NET WT 9 OZ (255 grams)
Kit Kat
Crisp Wafers
210 CALORIES PER PACK
NET WT 1.5 OZ (42 g)
PEANUT
m&m's

JUUL
PODS
CLASSIC MENTHOL
COOL CUCUMBER
CLASSIC TOBACCO
MANGO
VIRGINIA TOBACCO
COOL MINT
FRUIT MEDLEY
CREME BRULEE



Health Effects

Short term health effects can include:

- Cough
- Headache
- Dizziness
- Throat irritation
- Eye irritation
- Mild airway obstruction
- Throat and vocal cord inflammation

Danielsen, R. D. (2016). Vaping: Are Its "Benefits" a Lot of Hot Air?. Clinician Reviews, 26(6), 15-16.

Chemicals Found in Vaping

Propylene glycol
ANTIFREEZE

Acetone
NAIL POLISH REMOVER

Ethylbenzene
PAINTS, PESTICIDES

Formaldehyde
EMBALMING

Nicotine
CIGARETTES

Rubidium
FIREWORKS

VENTURA COUNTY
BEHAVIORAL HEALTH
ALCOHOL & DRUG PROGRAMS

Long Term Effects

-Still Largely Unknown -

Earliest Considerations:

Ingestion and accumulation of heavy metals

CHROMIUM, NICKEL, LEAD, ZINC

Olmedo, P. et.al. "The association of e-cigarette use with exposure to nickel and chromium: A preliminary study of non-invasive biomarkers." Environmental research, 159, 313-320.

Priming for Addiction

- **Nicotine changes the reward pathways in the brain.**
- **It can rewire developing brains (up to age 25) to be more easily addicted to other drugs.**
- **The damage can also affect the skills needed for making good decisions, leading to greater risk of addiction in the future.**

VENTURA COUNTY BEHAVIORAL HEALTH
ALCOHOL & DRUG PROGRAMS

Sources: Scientific American, Center on Addiction

Second Hand Exposure

- Using an e-product in enclosed environments involuntarily exposes nonusers
- More research is needed to evaluate health consequences of secondhand exposure
  - Initial concern is metals, especially Lead in children

Website of the US Surgeon General:
https://e-cigarettes.surgeongeneral.gov/knowtherisks.html#aerosol-exposure

Questions?

Thank you very much!

Special Thanks to:

- ☞ **California Department of Justice Tobacco Grant**
- ☞ **Ventura County Office of Education**
- ☞ **Ventura County Friday Night Live**
- ☞ **Ventura County Behavioral Health, Alcohol and Drug Programs**
- ☞ **Ventura County Tobacco Use Prevention Education**

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1. Danielsen, R. D. (2016). **Vaping: Are Its "Benefits" a Lot of Hot Air?**. *Clinician Reviews*, *26*(6), 15-16.

2. Olmedo, P., Goessler, W., Tanda, S., Grau-Perez, M., Jarmul, S., Aherrera, A., & ... Rule, A. M. (2018). **Metal Concentrations in e-Cigarette Liquid and Aerosol Samples: The Contribution of Metallic Coils.** *Environmental Health Perspectives*, *126*(2), 1-11. doi:10.1289/EHP2175

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Oxnard City Council Meeting
December 3, 2019

Ordinance revision to ban the sale of flavored tobacco products

Jason Zaragoza, Deputy City Attorney
Eric Sonstegard, Assistant Police Chief

Recommendation

That City Council approve the first reading by title only and waive further reading of an ordinance amending Article XIV of Chapter 11 of the Oxnard City Code related to Tobacco Retailer Permits and the sale of flavored tobacco products.

2

Purpose

The purpose of this amendment is to regulate flavored tobacco products and other emerging products to close gaps in Federal and State laws that do not yet address electronic cigarettes or electronic nicotine delivery systems and other products that may be appealing to youth.

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Emerging Issue

- National Youth Tobacco survey on the use of e-cigarettes among high school students:
  - *20.8 percent in 2018*
  - *27.5 percent in 2019*
- California Healthy Kids Survey 2017-18 for Oxnard Union High School District:
  - *11 % of 9th graders, 9% of 11th graders, and 22% of non-traditional school students have used an e-cigarette in the past 30 days.*
- Currently, there are 162 tobacco retailers licensed in the City

3

NATIONAL UPDATES

- September 3, 2019 - State of Michigan bans flavored e-cigarettes and vaping devices
- September 9, 2019 – FDA issues warning letter to JUUL for false advertisement of vaping product
- September 15, 2019 – New York's Governor Cuomo announced pursuit of emergency regulations to ban flavored e-cigarettes
- September 16, 2019 – California's Governor Newson announced plans to implement vaping awareness campaign and instructed state regulators to find ways to ban illegal and counterfeit products
- November 20, 2019 - American Medical Association calls for a total ban on vaping products not approved by the FDA.

3

Ordinance Changes

- Adds definitions
- Adds headings where appropriate
- Prohibits the sale of flavored tobacco products
- Prohibits coupons and discounts on tobacco products
- Prohibits the sale of little cigars
- Violations
  - First violation w/in 5 years- may suspend up to 30 days
  - Second violation w/in 5 years- may suspend up to 90 days
  - Third violation w/in 5 years- may suspend up to one year
  - Fourth violation or more w/in 5 years - revocation
- Modifies Permit Procedures

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ENFORCEMENT

Effective date of ordinance: 30 days after adoption

Enforcement: 90 days after ordinance effective date

20

Questions?

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.3.

DATE: December 3, 2019

TO: City Council

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Approve Purchase Order with WEX Bank for Fleet Fuel Cards Program. (5/5/5)

RECOMMENDATION

That the City Council award and authorize the Mayor to establish a Purchase Order with WEX Bank in the not to exceed amount of $7,200,000 for a three year term for Fuel Cards. (Public Works and Transportation Committee approved 3-0; expenditures for FY19 have been updated since PWTC approval.)

BACKGROUND

The Fleet Services Division (Fleet) of the Public Works Department provides maintenance and repair of the City's 953 vehicles and equipment, valued at over $44 million. Fleet is responsible for maintenance of vehicles as well as oversight for fuel and the fuel card program. Currently, the City purchases unleaded, diesel and Compressed Natural Gas (CNG). Unleaded and Diesel are purchased from Shell Corporation and CNG is purchased from Voyager at the SoCalGas-Oxnard Base location. All departments and divisions are currently using either Shell and/or Voyager fuel cards. The table below outlines diesel and unleaded fuel usage by Division.

Division	Fuel Purchased in FY 19	Percent
ER	$ 1,190,506.64	51.52%
Police	$ 622,289.28	26.93%
Parks	$ 144,422.88	6.25%
Water	$ 96,590.02	4.18%
Streets	$ 59,848.84	2.59%
City Corps	$ 53,147.62	2.30%
Other	$ 143,960.72	6.23%
Total	**$ 2,310,766.00**	**100%**

DISCUSSION

The Public Works Department and the Purchasing Division have been working toward implementing a new fuel card system to better serve the City Departments. The Wex Government Fleet Card Program allows for the purchase of Unleaded, Diesel and Compressed Natural Gas (CNG). Previously, the City was operating with two different vendors (Shell and Voyager) to meet its fuel needs. Converting to WEX fuel cards will increase operational efficiency and administrative burdens, and will allow for greater oversight of the program as a whole.

Wex Fleet Card is accepted at 95% of fueling stations nationwide. The following are some of the accepting fuel sites: Chevron, Circle K, Mobil, 76, Arco, Valero, Exxon, Seven Eleven, Shell, Sinclair and Texaco. The Wex Fleet Card will also be used to purchase CNG from SoCalGas-Oxnard Base. The City intends to piggyback on the Wex Government Fleet Card Program which has been competitively bid through Sourcewell, formerly NJPA.

Participation is free, with no enrollment, set up or card fees. A major improvement that the Wex Fleet Card provides is the number of locations available to fuel, allowing staff to conveniently fuel vehicles and reducing unnecessary time and miles traveled.

Supplemental to rebates and cost savings, the program offers better security and better accounting, which is something that staff believes to be an indirect cost of service (savings). Below outlines some high level aspects of the service agreement.

Cost Savings
- Estimated rebates of approximately 1.3% annually based on volume, prompt payment and annual spending;
- Use of electronic billing to reduce administrative costs;
- Reduce staff time spent on unnecessary fuel trips.

Better Security
- Manage spending with purchase limits the City controls;
- Driver IDs are used at the pump to help prevent fraud and misuse.

Better Accounting
- Track spending online and see fuel grade, cost per gallon, and sales tax for every purchase;
- Download monthly reports including exception reporting.

Oversight of fuel transactions will be enhanced due to the web based client portal. The WEX Fleet Card offers a suite of control and alert tools that allows staff to know where, when, what, and how much is being spent. Features include a pump shut off feature, type and amount control limits, real time alerts, and a number of standard and custom reports. Staff anticipates the WEX Fleet Card program to be implemented January 2020.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

The FY19/20 budget for fuel services is $2.2 million with estimated increase of 12% or $2.5 million annually for FY20/21 and FY21/22. Funding for FY19/20 is available in the Fleet Services Operational Fund (741-7501) and future year funding for fuel will be considered as part of the annual budget process. The following table shows the anticipated cumulative Fiscal Year breakdown for each funding source.

Account Number	FY 19/20	FY 20/21	FY 21/22	Total
741-7501-853.82-36 (Unleaded)	$960,000 (Budgeted)	$960,000 (Estimate)	$960,000 (Estimate)	$2,880,000
741-7501-853.82-37 (CNG)	$240,000 (Budgeted)	$240,000	$240,000	$720,000

		(Estimate)	(Estimate)	
741-7501-853.82-38 (Diesel)	$1,000,000 (Budgeted)	$1,300,000 (Estimate)	$1,300,000 (Estimate)	$3,600,000
TOTALS	$2,200,000	$2,500,000	$2,500,000	$7,200,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on October 22, 2019, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Brian Yanez, Assistant Public Works Director

ATTACHMENTS

1. Acceptance and Award-WEX Bank 042016
2. Fuel Card RFP
3. Paticipating Addendum
4. WEX 042016-5th Year Extension
5. WEX Contract
6. Wex Fuel Cards - PPT

FORM E
CONTRACT ACCEPTANCE AND AWARD

(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 042016-WEX

Proposer's full legal name: WEX Bank

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be July 20, 2016 and will expire on July 20, 2020 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:

NJPA DIRECTOR OF COOPERATIVE CONTRACTS AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)

NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
(NAME PRINTED OR TYPED)

Awarded on May 26, 2016

NJPA Contract # 042016-WEX

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name WEX Bank

Authorized Signatory's Title President/CEO

VENDOR AUTHORIZED SIGNATURE

Kirk S. Weiler
(NAME PRINTED OR TYPED)

Executed on May 27, 2016

NJPA Contract # 042016-WEX

APPROVED
By AGannon at 11:07 am, May 27, 2016

Fuel Card with Related Vehicle Fuel Management, Transaction, and Payment Settlement/Processing Services

I. Advertisement of RFP

Point Value: 0

2.1 NJPA shall advertise this solicitation: 1) once each in Oregon's Daily Journal of Commerce, South Carolina's The State and Utah's Salt Lake Tribune; 2) on NJPA's website; 3) in the hard copy print and online editions of the USA Today; and 4) on other third-party websites deemed appropriate by NJPA. Other third party advertisers may include Onvia, PublicPurchase.com, MERX and Biddingo.

2.2 NJPA also notifies and provides solicitation documentation to each state-level procurement departments for possible re-posting of the solicitation within their systems and at their option for future use and to meet specific state requirements.

II. Definitions

Point Value: 0

A. CONTRACT
Contract means this RFP, current pricing information, fully executed FormsC, D, F, & P from the Proposer's response pursuant to this RFP, and a fully executed Form E ("Acceptance and Award") with final terms and conditions. Form E will be executed after a formal award and will provide final clarification of terms and conditions of the award.

B. PROPOSER
A Proposer is a company, person, or entity delivering a timely response to this RFP. This RFP may also use the terms "respondent" or "proposed Vendor," which is interchangeable with Proposer as the context allows.

C. SOURCED GOOD or OPEN MARKET ITEM
A Sourced Good or Open Market Item is a product within the RFP's scope 1) that is not currently available under the Vendor's NJPA contract, 2) that a member wants to buy under contract from an awarded Vendor, and 3) that is generally deemed incidental to the total transaction or purchase of contract items.

D. Vendor

A Proposer whose response has been awarded a contract pursuant to this RFP.

III. Introduction

Point Value: 0

A. ABOUT NJPA

3.1 The National Joint Powers Alliance® (NJPA)is a public agency serving as a national municipal contracting agency established under the Service Cooperative statute by Minnesota Legislative Statute §123A.21 with the authority to develop and offer, among other services, cooperative procurement services to its membership. Eligible membership and participation includes states, cities, counties, all government agencies, both public and non-public educational agencies, colleges, universities and non-profit organizations.

3.2 Under the authority of Minnesota state laws and enabling legislation, NJPA facilitates a competitive solicitation and contracting process on behalf of the needs of itself and the needs of current and potential member agencies nationally. This process results in national procurement contracts with various Vendors of products/equipment and services which NJPA Member agencies desire to procure. These procurement contracts are created in compliance with applicable Minnesota Municipal Contracting Laws. A complete listing of NJPA cooperative procurement contracts can be found at www.njpacoop.org.

3.3 NJPA is a public agency governed by publicly elected officials that serve as the NJPA Board of Directors. NJPA's Board of Directors calls for all proposals, awards all Contracts, and hosts those resulting Contracts for the benefit of its own and its Members use.

3.3.1 Subject to Approval of the NJPA Board: NJPA contracts are awarded by the action of NJPA Board of Directors. This action is based on the open and competitive bidding process facilitated by NJPA. The evaluation and resulting recommendation is presented to the Board of Directors by the NJPA Proposal Evaluation Committee.

3.4 NJPA currently serves over 50,000 member agencies nationally. Both membership and utilization of NJPA contracts continue to expand, due in part to the increasing acceptance of Cooperative Purchasing throughout the government and education communities nationally.

B. JOINT EXERCISE OF POWERS LAWS

3.5 NJPA cooperatively shares those contracts with its Members nationwide through various Joint Exercise of Powers Laws or Cooperative Purchasing Statutes established in Minnesota, other states and Canadian provinces. The Minnesota Joint Exercise of Powers Law is Minnesota Statute §471.59 which states "Two or more governmental units…may jointly or cooperatively exercise any power common to the contracting parties…" This Minnesota Statute allows NJPA to serve Member agencies located in all other states. Municipal agencies nationally can participate in cooperative purchasing activities under their

own state law. These laws can be found on our website at http://www.njpacoop.org/national-cooperative-contr...

C. WHY RESPOND TO A NATIONAL COOPERATIVE PROCUREMENT CONTRACT

3.6 National Cooperative Procurement Contracts create value for Municipal and Public Agencies, as well as for Vendors of products/equipment and services in a variety of ways:

3.6.1 National cooperative contracts potentially save time and effort for municipal and public agencies, who otherwise would have to solicit vendor responses to individual RFPs, resulting in individual contracts, to meet the procurement needs of their respective agencies. Considerable time and effort is also potentially saved by the Vendors who would have had to otherwise respond to each of those individual RFPs. A single, nationally advertised RFP, resulting in a single, national cooperative contract can potentially replace thousands of individual RFPs for the same equipment/products/services that might have been otherwise advertised by individual NJPA member agencies.

3.6.2 NJPA contracts offer our Members nationally leveraged volume purchasing discounts. Our contract terms and conditions offer the opportunity for Vendors to recognize individual member procurement volume commitment through additional volume based contract discounts.

3.7 State laws that permit or encourage cooperative purchasing contracts do so with the belief that cooperative efficiencies will result in lower prices, better overall value, and considerable time savings.

3.8 The collective purchasing power of thousands of NJPA Member agencies nationwide offers the opportunity for volume pricing discounts. Although no sales or sales volume is guaranteed by an NJPA Contract resulting from this RFP, substantial volume is anticipated and volume pricing is requested and justified.

3.9NJPA and its Members desire the best value for their procurement dollar as well as a competitive price. Vendors have the opportunity to display and highlight value-added attributes of their company, equipment/products and services without constraints of a typical individual proposal process.

D. THE INTENT OF THIS RFP

3.10 National contract awarded by the NJPA Board of Directors: NJPA seeks the most responsive and responsible Vendor relationship(s) to reflect the best interests of NJPA and its Member agencies. Through a competitive proposal and evaluation process, the NJPA Proposal Evaluation Committee recommends vendors for a national contract awarded by the action of the NJPA Board of Directors. NJPA's primary intent is to establish and provide a national cooperative procurement contract that offer opportunities for NJPA and our Member agencies to procure quality product/equipment and services as desired and needed. The contracts will be marketed nationally through a cooperative effort between the

awarded vendor(s) and NJPA. Contracts are expected to offer price levels reflective of the potential and collective volume of NJPA and the nationally established NJPA membership base.

3.11 Beyond our primary intent, NJPA further desires to:

3.11.1 Award a four-year contract with a fifth year contract option resulting from this RFP. Any fifth-year extension is exercised at NJPA's discretion and results from NJPA's contracting needs or from Member requests; this extension is not intended merely to accommodate an awarded Vendor's request. If NJPA grants a fifth-year extension, it may also terminate the contract (or cause it to expire) within the fifth year if the extended contract is replaced by a resolicited or newly solicited contract. In exigent circmstances, NJPA may petition NJPA's Board of Directors to extend the contract term beyond five years. This rarely used procedure should be employed only to avoid a gap in contract coverage while a replacement contract is being solicited;

3.11.2 Offer and apply any applicable technological advances throughout the term of a contract resulting from this RFP;

3.11.3 Deliver "Value Added" aspects of the company, equipment/products and services as defined in the "Proposer's Response";

3.11.4 Deliver a wide spectrum of solutions to meet the needs and requirements of NJPA and NJPA Member agencies; and

3.11.5 Award an exclusive contract to the most responsive and responsible vendor when it is deemed to be in the best interest of NJPA and the NJPA Member agencies.

3.12 Exclusive or Multiple Awards : Based on the scope of this RFP and on the responses received, NJPA may award either an exclusive contract or multiple contracts. In some circumstances, a single national supplier may best meet the needs of NJPA Members; in other situations, multiple vendors may be preferred. NJPA retains sole discretion to determine which approach is in the best interests of NJPA Member agencies.

3.13 Non-Manufacturer Awards: NJPA reserves the right to make an award under this RFP to a non-manufacturer or dealer/distributor if such action is in the best interests of NJPA and its Members.

3.14 Manufacturer as a Proposer: If the Proposer is a manufacturer or wholesale distributor, the response received will be evaluated on the basis of a response made in conjunction with that manufacturer's authorized dealer network. Unless stated otherwise, a manufacturer or wholesale distributor Proposer is assumed to have a documented relationship with their dealer network where that dealer network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this RFP on behalf of the manufacturer or wholesale distributor Proposer. Any such dealer will be considered a sub-contractor of the Proposer/Vendor. The relationship between the manufacturer and wholesale distributor Proposer and its dealer network may be proposed at the time of the submission if that fact is properly identified.

3.15 Dealer/Reseller as a Proposer: If the Proposer is a dealer or reseller of the products and/or services being proposed, the response will be evaluated based on the Proposer's authorization to provide those products and services from their manufacturer. When requested by NJPA, Proposers must document their authority to offer those products and/or services.

E. SCOPE OF THIS RFP

3.16 Scope: The scope of this RFP is to award a contract to a qualifying vendor defined as a manufacturer, provider, or dealer/distributor, established as a Proposer, and deemed responsive and responsible through our open and competitive proposal process. Vendors will be awarded contracts based on the proposal and responders demonstrated ability to meet the expectations of the RFP and demonstrate the overall highest valued solutions which meet and/or exceed the current and future needs and requirements of NJPA and its Member agencies nationally within the scope of FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICES.

3.17 Additional Scope Definitions: For purposes of the scope of this solicitation:

3.17.1 In addition to FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICES, **t his solicitation should be read to include, but not limited to:**

3.17.1.1 Fuel cards, payment processing, fleet data analytics, and telematics. Respondents must meet the basic offering of the fuel card requirement in order to be considered within the scope of this solicitation. Additional offerings, such payment processing and fuel management systems, will be considered value-added features that are within this RFP's scope, but only if they are a part of a primary fuel card offering.

3.17.2 NJPA reserves the right to limit the scope of this solicitation for NJPA and current and potential NJPA member agencies.

3.17.2.1 N/A

3.18 Overlap of Scope : When considering equipment/products/services, or groups of equipment/ products/services submitted as a part of your response, and whether inclusion of such will fall within a "Scope of Proposal," please consider the validity of an inverse statement.

3.18.1 For example, pencils and post-it-notes can generally be classified as office supplies and office supplies generally include pencils and post-it-notes.

3.18.2 In contrast, computers (PCs and peripherals) can generally be considered office supplies; however, the scope of office supplies does not generally include computer servers and infrastructure.

3.18.3 In conclusion: With this in mind, individual products and services must be examined individually by NJPA, from time to time and in its sole discretion, to determine their compliance and fall within the original "Scope" as intended by NJPA.

3.19 Best and Most Responsive - Responsible Proposer: It is the intent of NJPA to award a Contract to the best and most responsible and responsive Proposer(s) offering the best overall quality and selection of equipment/products and services meeting the commonly requested specifications of the NJPA and NJPA Members, provided the Proposer's Response has been submitted in accordance with the requirements of this RFP. Qualifying Proposers who are able to anticipate the current and future needs and requirements of NJPA and NJPA member agencies; demonstrate the knowledge of any and all applicable industry standards, laws and regulations; and possess the willingness and ability to distribute, market to and service NJPA Members in all 50 states are preferred. NJPA requests proposers submit their entire product line as it applies and relates to the scope of this RFP.

3.20 Sealed Proposals: NJPA will receive sealed proposal responses to this RFP in accordance with accepted standards set forth in the Minnesota Procurement Code and Uniform Municipal Contracting Law. Awards may be made to responsible and responsive Proposers whose proposals are determined in writing to be the most advantageous to NJPA and its current or qualifying future NJPA Member agencies.

3.21 Use of Contract: Any Contract resulting from this solicitation shall be awarded with the understanding that it is for the sole convenience of NJPA and its Members. NJPA and/or its members reserve the right to obtain like equipment/products and services solely from this contract or from another contract source of their choice or from a contract resulting from their own procurement process.

3.22 Awarded Vendor's interest in a contract resulting from this RFP: Awarded Vendors will be able to offer to NJPA, and current and potential NJPA Members, only those products/equipment and services specifically awarded on their NJPA Awarded Contract(s). Awarded Vendors may not offer as "contract compliant," products/equipment and services which are not specifically identified and priced in their NJPA Awarded Contract.

3.23 Sole Source of Responsibility - NJPA desires a "Sole Source of Responsibility" Vendor. This means that the Vendor will take sole responsibility for the performance of delivered equipment/products/ services. NJPA also desires sole responsibility with regard to:

3.23.1 Scope of Equipment/Products/Services: NJPA desires a provider for the broadest possible scope of products/equipment and services being proposed over the largest possible geographic area and to the largest possible cross-section of NJPA current and potential Members.

3.23.2 Vendor use of sub-contractors in sourcing or delivering equipment/product/services: NJPA desires a single source of responsibility for equipment/products and services proposed. Proposers are assumed to have sub-contractor relationships with all organizations and individuals whom are external to the Proposer and are involved in providing or delivering the equipment/products/services being proposed. Vendor assumes all responsibility for the equipment/products/services and actions of any such Sub-

Contractor. Suggested Solutions Options include:

3.24.1 Multiple solutions to the needs of NJPA and NJPA Members are possible. Examples could include:

3.24.1.1 Equipment/Products Only Solution: Equipment/Products Only Solution may be appropriate for situations where NJPA or NJPA Members possess the ability, either in-house or through local third party contractors, to properly install and bring to operation those equipment/products being proposed.

3.24.1.2 Turn-Key Solutions: A Turn-Key Solution is a combination of equipment/products and services that provides a single price for equipment/products, delivery, and installation to a properly operating status. Generally this is the most desirable solution because NJPA and NJPA Members may not possess, or desire to engage, personnel with the necessary expertise to complete these tasks internally or through other independent contractors

3.24.1.3 Good, Better, Best: Where appropriate and properly identified, Proposers may offer the choice "of good, better, best" multiple-grade solutions to meet NJPA Members' needs.

3.24.1.4 Proven - Accepted - Leading-Edge Technology: Where appropriate and properly identified, Proposers may provide a spectrum of technology solutions to complement or enhance the proposed solutions to meet NJPA Members' needs.

3.24.2 If applicable, Contracts will be awarded to Proposer(s) able to deliver a proposal meeting the entire needs of NJPA and its Members within the scope of this RFP. NJPA prefers Proposers submit their complete product line of products and services described in the scope of this RFP. NJPA reserves the right to reject individual, or groupings of specific equipment/products and services proposals as a part of the award.

3.25 Geographic Area to be Proposed: This RFP invites proposals to provide FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICESto NJPA and NJPA Members throughout the entire United States and possibly internationally. Proposers will be expected to express willingness to explore service to NJPA Members located abroad; however the lack of ability to serve Members outside of the United States will not be cause for non-award. The ability and willingness to serve Canada, for instance, will be viewed as a value-added attribute.

3.26 Contract Term: At NJPA's option, a Contract resulting from this RFP will become effective either on the date awarded by the NJPA Board of Directors or on the day following the expiration date of an existing NJPA procurement contract for the same or similar product/equipment and services.

3.26.1 NJPA is seeking a Contract base term of four years as allowed by Minnesota Contracting Law. Full term is expected. However, one additional one-year renewal/extension may be offered by NJPA to Vendor beyond the original four year term if NJPA deems such action to be in the best interests of NJPA and its Members. NJPA reserves the right to conduct periodic business reviews throughout the term of the

contract.

3.27 Minimum Contract Value: NJPA anticipates considerable activity resulting from this RFP and subsequent award; however, no commitment of any kind is made concerning actual quantities to be acquired. NJPA does not guarantee usage. Usage will depend on the actual needs of the NJPA Members and the value of the awarded contract.

3.28

3.29 Contract Availability: This Contract must be available to all current and potential NJPA Members who choose to utilize this NJPA Contract to include all governmental and public agencies, public and private primary and secondary education agencies, and all non-profit organizations nationally.

3.30 Proposer's Commitment Period : In order to allow NJPA the opportunity to evaluate each proposal thoroughly, NJPA requires any response to this solicitation be valid and irrevocable for ninety (90) days after the date proposals are opened.

F. EXPECTATIONS FOR EQUIPMENT/PRODUCTS AND SERVICES BEING PROPOSED

3.31 Industry Standards: Except as contained herein, the specifications or solutions for this RFP shall be those accepted guidelines set forth by the FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICESindustry, as they are generally understood and accepted within that industry across the nation. Submitted products/equipment, related services, and their warranties and assurances are required to meet and/or exceed all current, traditional and anticipated needs and requirements of NJPA and its Members.

3.31.1 Deviations from industry standards must be identified by the Proposer and explained how, in their opinion, the equipment/products and services they propose will render equivalent functionality, coverage, performance, and/or related services. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire proposal.

3.31.2 Technical Descriptions/Specifications. Excessive technical descriptions and specifications thatunduly enlarge the proposal response may cause NJPA to reduce the evaluation points awarded on Form G. Proposers must supply sufficient information to:

3.31.2.1 demonstrate the Proposer's knowledge of industry standards;

3.31.2.2 identify the equipment/products and services being proposed; and

3.31.2.3 differentiate equipment/products and services from others.

3.32 New Current Model Equipment/Products: Proposals submitted shall be for new, current model

equipment/products and services with the exception of certain close-out products allowed to be offered on the Proposer's "Hot List" described herein.

3.33 Compliance with laws and standards: All items supplied on this Contract shall comply with any current applicable safety or regulatory standards or codes.

3.34 Delivered and operational: Products/equipment offered herein are to be proposed based upon being delivered and operational at the NJPA Member's site. Exceptions to "delivered and operational" must be clearly disclosed in the "Total Cost of Acquisition" section of the proposal.

3.35 Warranty: The Proposer warrants that all products, equipment, supplies, and services delivered under this Contract shall be covered by the industry standard or better warranty. All products and equipment should carry a minimum industry standard manufacturer's warranty that includes materials and labor. The Proposer has the primary responsibility to submit product specific warranty as required and accepted by industry standards. Dealer/Distributors agree to assist the purchaser in reaching a solution in a dispute over warranty's terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the warranty will be passed on to the NJPA member. Failure to submit a minimum warranty may result in non-award.

3.36 Additional Warrants: The Proposer warrants that all products/equipment and related services furnished hereunder will be free from liens and encumbrances; defects in design, materials, and workmanship; and will conform in all respects to the terms of this RFP including any specifications or standards. In addition, Proposer/Vendor warrants the products/equipment and related services are suitable for and will perform in accordance with the ordinary use for which they are intended.

G. SOLUTIONS-BASED SOLICITATION

3.37 The NJPA solicitation and contract award process is not based on detailed specifications. Instead, this RFP is a "Solutions-Based Solicitation." NJPA expects respondents to understand and anticipate the current and future needs of NJPA and its members-within the scope of this RFP-and to propose solutions that arecommonly desired or required by law or industry standards. proposal will be evaluated in part on your demonstrated ability to meet or exceed the needs and requirements of NJPA and our member agencies within the defined scope of this RFP.

3.38 While NJPA does not typically provide product and service specifications, the RFP may contain scope refinements and industry-specific questions. Where specific items are specified, those items should be considered the minimum required, which the proposal can exceed in order to meet Members' needs. NJPA may award all of the respondent's proposal or may limit the award to a subset of the proposal.

IV. Instructions for Preparing your Proposal

Point Value: 0

A. INQUIRY PERIOD

4.1 The inquiry period begins on the date of first advertisement and continues until the deadline for submission. RFP packages will be distributed to potential Vendors (or respondents?) during the inquiry period through RFP365.

B. PRE-PROPOSAL CONFERENCE

4.2 A pre-proposal conference will be held at the date and time specified in the timeline on page one of this RFP. Conference information will be sent to all potential Proposers, and attendance is optional. The purpose of this conference is to allow potential Proposers to ask questions regarding this RFP and NJPA's competitive contracting process. Only answers issued in writing by NJPA to questions asked before or during the pre-proposal conference are binding on the parties to an awarded contract.

C. IDENTIFICATION OF KEY PERSONNEL

4.3 Awarded Vendors will designate one senior staff member to represent the Vendor to NJPA. This contact person will correspond with members for technical assistance, questions, or concerns that may arise, including instructions regarding different contacts for different geographical areas or product lines.

4.4 These designated individuals should also act as the primary contact for marketing, sales, and any other area deemed essential by the Proposer and NJPA.

D. PROPOSER'S EXCEPTIONS TO TERMS AND CONDITIONS

4.5 Any exceptions, deviations, or contingencies regarding this RFP that a Proposer requests must be documented on Form C, Exceptions To Proposal, Terms, Conditions And Solutions Request .

4.6 Exceptions, deviations or contingencies requested in the Proposer's response, while possibly necessary in the view of the Proposer, may result in lower scoring or disqualification of a proposal.

E. PROPOSAL FORMAT

4.7 All Proposers must examine the entire RFP package to seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal.

4.8 THIS RFP WILL BE SUBMITTED THROUGH RFP365.

4.9 This section has been deleted.

4.9.1This section has been deleted.

4.9.2 This section has been deleted.

4.9.3 This section has been deleted.

4.9.4 As a public agency, NJPA's proposals, responses, and awarded contracts are a matter of public record, except for such data that is classified as nonpublic. Accordingly, public data is available for review through a properly submitted public records request. To redact nonpublic information from your proposal (under Minnesota Statute §13.37), you must make your request within thirty (30) days of the contract award or non-award date.

4.10 All Proposal forms must be submitted in English and must be legible. All appropriate forms must be executed by an authorized signatory of the Proposer. Blue ink is preferred for signatures.

4.11 Proposal submissions should be submitted using the electronic forms provided. Proposers that use alternative documents are responsible for ensuring that the content is substantially similar to the NJPA form and that the document is readable by NJPA.

4.12 The Proposer must ensure that the proposal is submitted through RFP365 before the submission deadline.

4.12.1 Proposals received by the deadline for proposal submission will be opened and the name of each Proposer and other appropriate information will be publicly read.

4.13 Addendums to this RFP can change the terms and conditions of the RFP, including the proposal submission deadline.

F. QUESTIONS AND ANSWERS ABOUT THIS RFP

4.14 Upon examination of this RFP document, Proposer should promptly notify NJPA of any ambiguity, inconsistency, or error they may discover. Interpretations, corrections, and changes to this RFP will be considered by NJPA through an addendum. Interpretations, corrections, or changes that are made in any other manner are not binding, and Proposers must not rely on them.

4.15 Submit all questions about this RFP, in writing, referencing FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICES to Jonathan Yahn at NJPA 202 12th Street NE, Staples, MN 56479 orto RFP@njpacoop.org. You may also call Jonathan Yahn at (218) 895-4144. NJPA urges potential

Proposers to communicate all concerns well in advance of the submission deadline to avoid misunderstandings. Questions received within seven (7) days before the submission deadline generally cannot be answered. NJPA may, however, field purely procedural questions, questions about NJPA-issued addenda, or questions involving a Proposer withdrawing its response before the RFP submission deadline.

4.16 If NPJA deems that its answer to a question has a material impact on other potential Proposers or on the RFP itself, NJPA will create an addendum to this RFP.

4.17 If NJPA deems that its answer to a question merely clarifies the existing terms and conditions and does not have a material impact on other potential Proposers or the RFP itself, no further documentation of that question is required.

4.18 Addenda are written instruments issued by NJPA that modify or interpret the RFP. All addenda issued by NJPA become a part of the RFP. Addenda will be delivered to all Potential Proposers using the same method of delivery of the original RFP material. NJPA accepts no liability in connection with the delivery of any addenda. Copies of addenda will also be made available on the NJPA website at www.njpacoop.org (under "Current and Pending Solicitations") and from the NJPA offices. All Proposers must acknowledge their receipt of all addenda in their proposal response.

4.19 This section has been deleted.

G. MODIFICATION OR WITHDRAWAL OF A SUBMITTED PROPOSAL

4.22 A submitted proposal must not be modified, withdrawn, or cancelled by the Proposer for a period of ninety (90) days following the date proposals were opened. Before the deadline for submission of proposals, any proposal submitted may be modified or withdrawn by notice to the NJPA Contracts and Compliance Manager. The notice must be delivered by any reasonable means to NJPA before the deadline for submission of proposals and must be so worded as not to reveal the content of the original proposal. Withdrawn proposals may be resubmitted up to the time designated for the receipt of the proposals if they fully conform with the proposal instructions.

H. PROPOSAL OPENING PROCEDURE

4.23 At the time of the public opening, the NJPA Director of Contracts and Marketing or a representative from the NJPA Proposal Evaluation Committee will read the Proposer's names aloud and will determine whether each submission has met Level-1 responsiveness.

I. NJPA'S RIGHTS RESERVED

NJPA may exercise the following rights with regard to the RFP.

4.24.1 Reject any and all proposals received in response to this RFP;

4.24.2 Disqualify any Proposer whose conduct or proposal fails to conform to the requirements of this RFP;

4.24.3 Duplicate without limitation all materials submitted for purposes of RFP evaluation, and duplicate all public information in response to data requests regarding the proposal;

4.24.4 Consider and accept for evaluation a late modification of a proposal if 1) the proposal itself was submitted on time, 2) the modifications were requested by NJPA, and 3) the modifications make the terms of the proposal more favorable to NJPA or its members;

4.24.5 Waive any non-material deviations from the requirements and procedures of this RFP;

4.24.6 Extend the Contract, in increments determined by NJPA, not to exceed a total Contract term of five years;

4.24.7 Cancel the Request for Proposal at any time and for any reason with no cost or penalty to NJPA;

4.24.8 Correct or amend the RFP at any time with no cost or penalty to NJPA. If NJPA corrects or amends any segment of the RFP after submission of proposals and before the announcement of the awarded Vendor, all proposers will be afforded a reasonable opportunity to revise their proposals in order to accommodate the RFP amendment and the new submission dates . NJPA will not be liable for any errors in the RFP or other responses related to the RFP; and

4.24.9 Extend proposal due dates.

V. Pricing

Point Value: 0

5.1 NJPA requests that potential Proposers respond to this RFP only if they are able to offer a wide array of products and services at lower prices and with better value than what they would ordinarily offer to a single government agency, a school district, or a regional cooperative.

5.2 This RFP requests pricing for an indefinite quantity of products or related services with potential national sales distribution and service. While most RFP categories represent significant sales opportunities, NJPA makes no guarantees about the quantity of products or services that members will purchase. **The estimated annual value of this contract is $.**

5.3 Regardless of the payment method selected by NJPA or an NJPA member, the total cost associated

with any purchase option of the products and services must always be disclosed in the proposal and at the time of purchase.

5.4 All proposers must submit "Primary Pricing" in the form of either "Line-Item Pricing," or "Percentage Discount from Catalog Pricing," or a combination of these pricing strategies. Proposers are also encouraged to offer optional pricing strategies such as "Hot List," "Sourced Products," and "Volume Discounts," as well as financing options such as leasing. All pricing documents should include a clear effective date.

A. LINE-ITEM PRICING

5.5 Line-item pricing is a pricing format in which individual products or services are offered at specific Contract prices. Products or services are individually priced and described by characteristics such as manufacture name, stock or part number, size, or functionality. This method of pricing may offer the least amount of confusion, but Proposers with a large number of items may find this method cumbersome. In these situations, a percentage discount from catalog or category pricing model may make more sense and may increase the clarity of the contract pricing format.

5.6 All line-item pricing items must be numbered, organized, sectioned (including SKUs, when applicable), and prepared to be easily understood by the Evaluation Committee and members.

5.7 Submit Line-Item Pricing items in an Excel spreadsheet format and include all appropriate identification information necessary to discern the line item from other line items in each Responder's proposal.

5.8 Line-item pricing must be submitted to NJPA in a searchable spreadsheet format (e.g., MicroSoft ® Excel®) in order to facilitate quickly finding any particular item of interest. For that reason, Proposers are responsible for providing the appropriate product and service identification information along with the pricing information that is typically found on an invoice or price quote for such product or services.

5.9 All products or services typically appearing on an invoice or price quote must be individually priced and identified on the line-item price sheet, including any and all ancillary costs.

5.10 Proposers should provide both a published "List Price" as well as a "Proposed Contract Price" in their pricing matrix. Published List Price will be the standard "quantity of one" price currently available to government and educational customers, excluding cooperative and volume discounts.

B. PERCENTAGE DISCOUNT FROM CATALOG OR CATEGORY

5.11 This pricing model involves a specific percentage discount from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services being proposed.

5.12 Individualized percentage discounts can be applied to any number of defined product groupings.

5.13 A percentage discount from MSRP may be applied to all elements identified in MSRP, including all manufacturer options applicable to the products or services.

5.14 When a Proposer elects to use "Percentage Discount from Catalog or Category," Proposer will be responsible for providing and maintaining current published MSRP with NJPA, and this pricing must be included in its proposal and provided throughout the term of any Contract resulting from this RFP.

C. COST PLUS A PERCENTAGE OF COST

5.15 "Cost plus a percentage of cost" as a primary pricing mechanism is not desirable. It is, however, acceptable for pricing sourced goods or services.

D. HOT LIST PRICING

5.16 Where applicable, a Vendor may opt to offer a specific selection of products or services, defined as "Hot List" pricing, at greater discounts than those listed in the standard Contract pricing. All product and service pricing, including the Hot List Pricing, must be submitted electronically in a format that is acceptable to NJPA. Hot List pricing must be submitted in a line-item format. Products and services may be added or removed from the Hot List at any time through an NJPA Price and Product Change Form.

5.17 Hot List program and pricing may also be used to discount and liquidate close-out and discontinued products and services as long as those close-out and discontinued items are clearly labeled as such. Current ordering process and administrative fees apply. This option must be published and made available to all NJPA Members.

E. CEILING PRICE

5.18 Proposal pricing is to be established as a ceiling price. At no time may the proposed products or services be offered under this Contract at prices above this ceiling price without a specific request and approval by NJPA. Contract prices may be reduced at any time, for example, to reflect volume discounts or to meet the needs of an NJPA Member.

5.19

F. VOLUME PRICE DISCOUNTS / ADDITIONAL QUANTITIES

G. TOTAL COST OF ACQUISITION

5.24 The Total Cost of Acquisition for the equipment/products and related services being proposed, including those payable by NJPA Members to either the Proposer or a third party, is the cost of the proposed equipment/products product/equipment and related services delivered and operational for its intended purpose in the end-user's location. For example, if you are proposing equipment/products FOB Proposer's dock, your proposal should reflect that the contract pricing does not provide for delivery beyond Proposer's dock, nor any set-up activities or costs associated with those delivery or set-up activities. Any additional costs for delivery and set-up should be clearly disclosed. In contrast, a proposal could state that there are no additional costs of acquisition if the product is delivered to and operational at the end-user's location.

H. SOURCED GOOD or OPEN MARKET ITEM

5.25 A Sourced Good or an Open Market Item is a product that a member wants to buy under contract that is not currently available under the Vendor's NJPA contract. This method of procurement can be satisfied through a contract sourcing process. Sourcing options serve to provide a more complete contract solution to meet our members' needs. Sourced items are generally deemed incidental to the total transaction or purchase of contract items.

5.26 NJPA or NJPA Members may request products, equipment, and related services that are within the related scope of this RFP, even if they are not included in an awarded Vendor's line-item price list or catalog. These items are known as Sourced Goods or Open Market Items.

5.27 An awarded Vendor may source such items to the extent that the itemsare identifiedas "Sourced Products/Equipment " or "Open Market Items" on any quotation issued in reference to an NJPA awarded contract, and that this information is provided to either NJPA or an NJPA Member. NJPA is not responsible for determining whether a Sourced Good is an incidental portion of the overall purchase or whether a Member is able to consider a Sourced Good a purchase under an NJPA contract.

5.28 "Cost plus a percentage" pricing is an acceptable option in pricing of Sourced Goods.

I. PRODUCT & PRICE CHANGES

5.29 Awarded Vendors may request product or service changes, additions, or deletions at any time throughout the contract term. All requests must be made in written format by completing the NJPA Price and Product Change Request Form (located at the end of this RFP and on the NJPA website), signed by

an authorized Vendor representative. All changes are subject to review and approval by NJPA. Submit your requests through email to your assigned Contract Manager and to PandP@njpacoop.org.

5.30 NJPA will determine whether the request is both within the scope of the original RFP and in the best interests of NJPA and NJPA Members. Approved Price and Product Change Request Forms will be returned to the Vendor contact through email.

5.31 The Vendor must 1) complete this change request form and individually list or attach all items subject to change, 2) provide a sufficiently detailed explanation and documentation for the change, and 3) include a compete restatement of pricing document in appropriate format (preferably Excel). The pricing document must identify all products and services being offered and must conform to the following NJPA product and price change naming convention: (Vendor Name) (NJPA Contract #) (effective pricing date); for example, "COMPANY 012411-CPY effective 02-12-2016."

5.32 The new pricing restatement must include *all* products and services offered, even for those items whose pricing remains unchanged , and must include a new effective date on the pricing documents. This requirement reduces confusion by providing a single, current pricing sheet for each vendor and creates a historical record of pricing.

5.33 ADDITIONS. New products and related services may be added to a Contract resulting from this RFP at any time during that Contract term to the extent that those products and related services are within the scope of this RFP. Allowable new products and related services generally include updated models of products and enhanced services that reflect new technology and improved functionality.

5.34 DELETIONS. New products and related services may be deleted from a contract if an item is no longer available.

5.35 PRICE CHANGES. A Vendor may request pricing changes by providing reasonable justification for the change. For example, a request for a 3% increase in a product line that relies heavily on petroleum products may be reasonable if the raw cost of required petroleum products has increased substantially. Conversely, a request for a 3% increase in prices based only on a 3% increase in a cost-of-living index may be considered unreasonable. Although NJPA is sensitive to the possibility of fluctuations in raw material costs, prospective Vendors should make every reasonable attempt to account for normal cost changes by proposing pricing that will be effective throughout the duration of the four-year Contract.

5.35.1 *Price decreases:* NJPA expects Vendors to propose their very best prices and anticipates price reductions that are due to advancement in technology and marketplace efficiencies.

5.35.2 *Price increases:* A Vendor must include reasonable documentation for price-increase requests, along with both current and proposed pricing. Appropriate documentation should be attached to the Price and Product Change Request Form, including letters from suppliers announcing price increases. Price increases must not exceed the industry standard.

5.38 Proposers representing multiple manufacturers, or carrying multiple related product lines may also

request the addition of new manufacturers or product lines to their Contract to the extent they remain within the scope of this RFP.

K. SALES TAX

5.44 Sales and other taxes should not be included in the prices quoted. The Vendor will charge state and local sales and other applicable taxes on items for which a valid tax-exemption certification has not been provided. Each NJPA Member is responsible for providing verification of tax-exempt status to the Vendor. When ordering, NJPA Members must indicate that they are tax-exempt entities. Except as set forth herein, no party is responsible for taxes imposed on another party as a result of or arising from the transactions under a Contract resulting from this RFP.

L. SHIPPING

5.45 Shipping costs can constitute a significant portion of the overall cost of procurement. Consequently, significant weight will be given to the quality of a prospective Vendor's shipping program. Shipping charges should reasonably reflect the actual cost of shipping. NJPA understands that Vendors may use other shipping cost methods for simplicity or for transparency. But to the extent that shipping costs are determined to disproportionately increase a Vendor's profit, NJPA may reduce the points awarded in the "Pricing" criteria.

5.48 All shipping and restocking fees must be identified in the price program. Certain industries providing made-to-order products may not allow returns. Proposals will be evaluated not only on the actual costs of shipping, but on the relative flexibility extended to NJPA Members relating to restocking fees, shipping errors, customized shipping requirements, the process for rejecting damaged or delayed shipments, and similar subjects.

5.51 Delivered products must be properly packaged. Damaged products may be rejected.I If the damage is not readily apparent at the time of delivery, the Vendor must permit the products to be returned within a reasonable time at no cost to NJPA or NJPA Member. NJPA and NJPA Members reserve the right to inspect the products at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of the products at the time of delivery.

5.52 The Vendor must deliver Contract-conforming products in each shipment and may not substitute products without the express approval from NJPA or the NJPA Member.

5.53 NJPA reserves the right to declare a breach of Contract if the Vendor intentionally delivers substandard or inferior products that are not under Contract and described in its paper or electronic price lists or sourced upon request of any Member under this Contract. In the event of the delivery of nonconforming products, the NJPA Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming products with conforming products that are acceptable to the NJPA member.

5.54 Throughout the term of the Contract, Proposer agrees to pay for return shipment on products that arrive in a defective or inoperable condition. Proposer must arrange for the return shipment of the damaged products.

VI. Evaluation of Proposals

Point Value: 0

A. PROPOSAL EVALUATION PROCESS

6.1 The NJPA proposal evaluation committee will evaluate proposals received based on a 1,000 point evaluation system. The committee establishes both the evaluation criteria and designates the relative weight of each criterion by assigning possible scores for each category on Form G of this RFP. The committee may adjust the relative weight of the criteria for each RFP. (For example, if the "Warranty" criterion does not apply to a particular RFP, the points normally awarded under "Warranty" may be used to increase the number of potential points in another evaluation category or categories.) The "Pricing" criterion will contain at least a plurality of points for every RFP.

6.2 NJPA uses a scoring system that gives primary importance to "Pricing." But pricing includes more than just the absolute lowest initial cost of purchasing, for example, a particular product. Other considerations include the total cost of the acquisition and whether the Proposer's offering represents the best value. The evaluation committee may consider such factors as life-cycle costs, total cost of ownership, quality, and the suitability of an offering in meeting NJPA Members' needs. Pricing points may be awarded based on pricing clarity and ease of use. NJPA may also award points based on whether a response contains exceptions, exclusions, or limitations of liabilities.

6.3 The NJPA Board of Directors will consider making awards to the selected Proposer(s) based on the recommendations of the proposal evaluation committee. To qualify for the final evaluation, a Proposer must have been deemed responsive as a result of the criteria set forth under "Proposer Responsiveness," found just below.

B. PROPOSER RESPONSIVENESS

6.4 All responses are evaluated for Level-One and Level-Two Responsiveness. If a response does not substantially conform to substantially all of the terms and conditions in the solicitation, or if it requires unreasonable exceptions, it may be considered non-responsive,

6.5 All proposals must contain suitable responses to the questions in the proposal forms.The following requirements must be satisfied in order to meet Level-One Responsiveness, which is typically ascertained on the proposal opening date. If these standards are not met, your response may be disqualified as non-responsive.

6.6 Level-One Responsiveness means that the response

6.6.1 is received before the deadline for submission or it will be returned unopened.

6.6.2 This section has been deleted.

6.6.3 contains a pricing document (with apparent discounts) and all other forms fully completed, even if "not applicable" is the answer;

6.6.4 This section has been deleted.

6.6.5 This section has been deleted.

6.7 Level-Two Responsiveness (including whether the response is within the RFP's scope) is determined while evaluating the remaining items listed under Proposal Evaluation Criteria below. These items are not arranged in order of importance. Each item draws from multiple questions, and a Proposer's responses may affect scoring in multiple evaluation criteria. For example, the answers to Industry-Specific Questions may help determining scoring relative to a Proposer's marketplace success, ability to sell and service nationwide, and financial strength. Any questions not answered without an explanation will likely result in a loss of points and may lead to a non award if the proposal evaluation committee cannot effectively review your response.

C. PROPOSAL EVALUATION CRITERIA

6.8 Forms A and P include a series of questions that address the following categories:

6.8.1 Company Information and Financial Strength

6.8.2 Industry Requirements and Marketplace Success

6.8.3 Ability to Sell and Deliver Service Nationwide

6.8.4 Marketing Plan

6.8.5 Other Cooperative Procurement Contracts

6.8.6 Value-Added Attributes

6.8.7 Payment Terms and Financing Options

6.8.8 Warranty

6.8.9 Equipment/Products/Services

6.8.10 Pricing and Delivery

6.8.11 Industry-Specific Questions

D. OTHER CONSIDERATIONS

6.10 In evaluating RFP responses, NJPA has no obligation to consider information that is not provided in the Proposer's response. NJPA may, however, consider additional information outside the Proposer's response. This research may include such sources as the Proposer's website, industry publications, listed references, and user interviews.

6.11 NJPA may organize RFP responses into separate classes or subcategories, depending on the range of responses. For example, NJPA might receive numerous submissions for "Widgets and Related Products and Services." NJPA may organize these responses into subcategories, such as manufacturers of fully operational Widgets, manufacturers of component parts for Widgets, and providers of parts and service for Widgets. NJPA reserves the right to award Proposers in some or all of such subcategories without regard to the evaluation score given to Proposers in another subcategory. This specifically allows NJPA to award Vendors that might not have, for instance, the breadth of products of Proposers in another subcategory, but that nonetheless meet an substantial and articulated need of NJPA Members.

6.13 NJPA reserves the right to request and test equipment/products and related services and to seek clarification from Proposers. Before the Contract award, the Proposer must furnish the requested information within three (3) days (or within another agreed-to time frame) or provide an explanation for the delay along with a requested time frame for providing the requested information. Proposers must make reasonable efforts to supply test products promptly. All Proposer products remain the property of the Proposer, and NJPA will return such products after the evaluation process. NJPA may make provisional contract awards, subject to a Proposer's proper response to a request for information or products.

6.14 A Proposer's past performance under previously awarded contracts to schools, governmental agencies, and not-for-profit entities is relevant in evaluating a Proposer's current response. Past performance includes the Proposer's record of conforming to published specifications and to standards of good workmanship, as well as the Proposer's history for reasonable and cooperative behavior and for commitment to Member satisfaction.Incumbency as an awarded Vendor does not, by itself, merit positive consideration for a future Contract award..

6.15 NJPA reserves the right to reject any or all proposals.

E. COST COMPARISON

6.16 NJPA may use a variety of evaluation methods, including cost comparisons of specific products. NJPA reserves the right to use this process when the proposal evaluation committee determines that this will help to make a final determination.

6.17 This direct cost comparison process will award points for being low to high Proposer for each cost evaluation item selected. A "Market Basket" of identical (or substantially similar) equipment/products and related services may be selected by the proposal evaluation committee, and the unit cost will be used as a basis for determining the point value. NJPA will select the "Market Basket" from all appropriate product categories as determined by NJPA.

F. MARKETING PLAN

6.18 A Proposer's marketing plan is a critical component of the RFP response. An awarded Vendor's sales force will likely be the primary source of communication with NJPA Members and will directly affect the contract's success. Marketing success depends on communicating the contract's value, knowing the contract thoroughly, and communicating the proper use of contracted products and services to the end user. Much of the success and sales reward is a direct result of the commitment to the contract by the awarded Vendor's sales teams. NJPA reserves the right to deem a Proposer Level-Two non-responsive or not to award a contract based on an unacceptable or incomplete marketing plan.

6.19 NJPA marketing expectations include the following components.

6.19.1 An awarded Vendor must demonstrate the ability to deploy a national sales force or dealer network. The best RFP responses demonstrate the ability to sell, deliver, and service products through acceptable distribution channels to NJPA members in all 50 states. Proposers' responses should fully demonstrate their sales and service capabilities, should outline their national sales force network (both numerically geographically), and should describe their method of distribution of the offered products and related services. Service may be independent of the product sales pricing, but NJPA encourages related services to be a part of Proposers' response. Despite it's preference for awarding contracts to Vendors that demonstrate nationwide sales and service, NJPA reserves the right to award contracts that meet specific Member needs locally or regionally.

6.19.2 Proposers are invited to demonstrate their ability to successfully market, promote, and communicate the benefits of an NJPA contract to current and potential Members nationwide. NJPA desires a marketing plan that communicates the value of the contract to as many Members as possible.

6.19.3 Proposers are expected to be receptive to NJPA trainings. Awarded Vendorsmust provide an appropriate training venue for both management and the sales force. NJPA commits to providing training on all aspects of communicating the value of the awarded contract, including the authority of NJPA to offer the contract to its Members, the value and utility the contract delivers to NJPA Members, the scope

of NJPA Membership, the authority of Members to use NJPA procurement contracts, the preferred marketing and sales methods, and the successful use of specific business sector strategies.

6.19.4 Awarded Vendors are expected to demonstrate a commitment to fully embrace the NJPA contract. Proposers should identify both the appropriate levels of sales management and sales force that will need to understand the value of the NJPA contract, as well as the internal procedures needed to deliver the appropriate messaging to NJPA Members. NJPA will provide a general schedule and a variety of methods describing when and how those individuals should be trained.

6.19.5 Proposers should outline their proposed involvement in promoting an NJPA contract through applicable industry trade show exhibits and related customer meetings. Proposers are encouraged to consider participation with NJPA at NJPA-endorsed national trade shows.

6.19.6 Proposers must exhibit the willingness and ability to actively market and develop contract-specific marketing materials including the following items.

6.19.6.1 Complete Marketing Plan. Proposers must submit a marketing plan outlining how they will launch the NJPA contract to current and potential NJPA Members. NJPA requires awarded Vendors to embrace and actively promote the contract in cooperation with the NJPA.

6.19.6.2 Printed Marketing Materials . Awarded Vendors will produce and maintain full color print advertisements in camera-ready electronic format, including company logos and contact information to be used in the NJPA directory and other approved marketing publications.

6.19.6.3 Contract announcements and advertisements. Proposers should outline in the marketing plan their anticipated contract announcements, advertisements in industry periodicals, and other direct or indirect marketing activities promoting the awarded NJPA contract.

6.19.6.4 Proposer's Website. Proposers should identify how an awarded Contract will be displayed and linked on the Proposer's website. An online shopping experience for NJPA Members is desired whenever possible.

6.19.7 An NJPA Vendor contract launch will be scheduled during a reasonable time frame after the award and held at the NJPA office in Staples, MN unless the Vendor and NJPA agree to a different location.

6.20 Proposer shall identify their commitment to develop a sales/communication process to facilitate NJPA membership and establish status of current and potential agencies/members. Proposer should further express their commitment to capturing sufficient member information as is deemed necessary by NJPA.

G. CERTIFICATE OF INSURANCE

6.21 Proposers must provide evidence of liability insurance coverage identified below in the form of a Certificate of Insurance (COI) or an ACORD binder form with their proposal. Upon an award issued under this RFP and before the execution of any commerce relating to such award, the awarded Vendor must provide verification, in the form of a Certificate of Insurance, identifying the coverage required below and identifying NJPA as a "Certificate Holder." The Vendor must maintain such insurance coverage at its own expense throughout the term of any contract resulting from this solicitation.

6.22 Any exceptions or assumptions to the insurance requirements must be identified on Form C of this RFP **.** Exceptions and assumptions will be considered as part of the evaluation process. Any exceptions or assumptions that Proposers submit must be specific. If a Proposer does not include specific exceptions or assumptions when submitting the proposal, NJPA will typically not consider any additional exceptions or assumptions during the evaluation process. Upon contract award, the awarded Vendor must provide the Certificate of Insurance identifying the coverage as specified **.**

6.23 Insurance Liability Limits. The awarded Vendor must maintain, for the duration of its contract, $1.5 million in general liability insurance coverage or general liability insurance in conjunction with an umbrella for a total combined coverage of $1.5 million. Work on the Contract will not begin until after the awarded Vendor has submitted acceptable evidence of the required insurance coverage. Failure to maintain any required insurance coverage or an acceptable alternative method of insurance will be deemed a breach of contract.

6.23.1 Minimum Scope and Limits of Insurance. An awarded Vendor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form"basis.

6.23.1.1 CommercialGeneralLiability-OccurrenceForm

Policy shall include bodily injury,property damage and broad form contractual liability and XCU coverage.

6.23.1.2 Each Occurrence $1,500,000

6.24 Insurance Requirements: The limits listed in this RFP are minimum requirements for this Contract and in no way limit any indemnity covenants contained in this Contract. NJPA does not warrant that the minimum limits contained here in are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this Contract by the Vendor, its agents, representatives, employees, or subcontractors, and the Vendor is free to purchase additional insurance as may be determined necessary.

6.25 Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Minnesota and with an"A.M.Best"rating of not less than A-VII. NJPA does not

warrant that the above required minimum insurer rating is sufficient to protect the Vendor from potential insurer solvency.

6.26 Subcontractors: Vendors' certificate(s) must include all subcontractors as additional insureds under its policies, or the Vendor must furnish to NJPA separate certificates for each subcontractor. All coverage for subcontractors are be subject to the minimum requirements identified above.

H. ORDER PROCESS AND/OR FUNDS FLOW

6.27 NJPA Members typically issue a purchase order directly to a Vendor under a Contract resulting from this RFP. Alternatively, a separate contract may be created to facilitate acquiring products or services offered in response to this RFP. Nothing in this Contract restricts the Member and Vendor from agreeing to add terms or conditions to a purchase order or a separate contract provided that such terms or conditions must not be less favorable to NJPA's Members.

I. ADMINISTRATIVE FEES

6.29 Vendors will pay to NJPA an administrative fee in exchange for NJPA facilitatingthis Contract with its current and potential Members. NJPA may grant a conditional contract award to a Proposer if the proposed administrative fee is unclear, inadequate, or unduly burdensome for NJPA to administer. Sales under this Contract should not be processed until the parties resolve the administrative fee issue.

6.29.1 The administrative fee is calculated as a percentage of the dollar volume of all products and services by NJPA Members under this Contract, including anything represented to NJPA Members as falling under this Contract.

6.29.2 The administrative fee is included in, and not added to, the pricing included in Proposer's response to the RFP. Awarded Vendors must not charge NJPA Members more that permitted in the then current price list in order to offset the administrative fee.

6.29.3 The administrative fee is designed to cover the costs of NJPA's involvement in contract management, facilitating marketing efforts, Vendor training, and any order processing tasks relating to the Contract. Administrative fees may also be used for other purposes as allowed by Minnesota law.

6.29.4 The typical administrative fee under this Contract two percent (2%). While NJPA does not dictate the particular fee percentage, we require that the Proposer articulate a specific fee in its response. For example, merely stating that "we agree to pay an administrative fee" is considered nonresponsive. NPJA acknowledges that the administrative fee percentage may differ between vendors, industries, and responses.

6.29.5 NJPA awarded Vendors are responsible for paying the administrative fee at least quarterly and for

generating all related reporting. Vendors agree to cooperate with NJPA in auditing these reports to ensure that the administrative fee is paid on all items purchased under the Contract.

J. VALUE-ADDED ATTRIBUTES

6.33 Desirability of Value-Added Attributes: Value-added attributes in an RFP response will be given positive consideration in NJPA's evaluation process. Such attributes may increase the benefit of a product or service by improving functionality, performance, maintenance, manufacturing, delivery, energy efficiency, ordering, or other items while remaining within the scope of this RFP.

6.34 Women and MinorityBusiness Enterprise (WMBE), Small Business, and Other Favored Businesses: Some NJPA Members give formal preference to certain types of vendors or contractors. Proposers should document WMBE (or other) status for both their organization and for any affiliates (i.e., supplier networks) involved in fulfilling the terms of this RFP. The ability of a Proposer to provide preferred business entity "credits" to NJPA and NJPA Members under a Contract will be evaluated positively by NJPA and reflected in the "value added" area of the evaluation.

6.35 Environmentally Preferred Purchasing Opportunities: Many NJPA Members consider the environmental impact of the products and services they purchase. "Green" characteristics demonstrated by Proposers will be evaluated positively by NJPA and reflected in the "value added" area of the evaluation. Please identify any green characteristics of any offering in your proposal and identify the sanctioning body determining that characteristic. Where appropriate, please indicate which products have been certified as green and by which certifying agency.

6.36 Online Requisitioning Systems: When applicable, online requisitioning systems will be viewed as a value-added characteristic. Proposers should demonstrate how their system makes online ordering easier for NJPA Members, including how Members could integrate their current e-Procurement or enterprise resource planning (ERP) systems into the Proposer's ordering process.

6.37 Financing: The ability of the Proposer to provide financing solutions to Members for the products and services being proposed will be viewed as a value-added Aatribute.

6.38 Technology: Technological advances that appreciablyimprove the proposed products or services will be considered value-added attributes.

K. WAIVER OF FORMALITIES

6.39 NJPA reserves the right to waive minor formalities (or to accept minor irregularities) in any proposal, when it determines that considering the proposal may be in the best interest of its Members.

VII. Post-Award Operating Issues

Point Value: 0

A. SUBSEQUENT AGREEMENTS

7.1 Purchase Order. Purchase orders for products and services may be executed between NJPA Members and the awarded Vendor (or Vendor's sub-contractors) under this Contract. NJPA Members and Vendors must indicate on the face of such purchase orders that "This purchase order is issued under NJPA contract #XXXXXX." (insert the relevant contract number). Purchase order flow and procedure will be developed jointly between NJPA and an awarded Vendor after an award is made.

7.2 Governing Law. Purchase orders must be construed in accordance with, and governed by, the laws of a competent jurisdiction with respect to the Member. (See also Section 8.5 of this RFP.) All provisions required by law to be included in the purchase order should be read and enforced as if they were included. If through mistake or otherwise any such provision is not included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. The venue for any litigation arising out of disputes related to purchase order will be a court of competent jurisdiction with respect to the Member.

7.3 Additional Terms and Conditions. Additional terms and conditions to a purchase order may be proposed by NJPA, NJPA Members, or Vendors. Acceptance of these additional terms and conditions is optional to all parties to the purchase order. One purpose of these additional terms and conditions is to address job- or industry-specific requirements of law such as prevailing wage legislation. Additional terms and conditions may also include specific local policy requirements and standard business practices of the issuing Member or the Vendor. Such additional terms and conditions are not considered valid to the extent that they interfere with the general purpose, intent, or currently established terms and conditions contain in this RFP document. For example, a Vendor and Member may agree to add a "net 30" payment requirement to the purchase order instead of applying a "net 10" requirement. But the added terms and conditions must not be less favorable to the Member unless NJPA, the Member, and the Vendor agree to a Contract amendment or similar modification.

7.4 Specialized Service Requirements. In the event that the NJPA Member desires service requirements or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in the Contract resulting from this RFP, the NJPA Member and the Vendor may enter into a separate, standalone agreement, apart from a Contract resulting from this RFP. Any proposed service requirements or specialized performance requirements require pre-approval by the Vendor. Any separate agreement developed to address these specialized service or performance requirements is exclusively between the NJPA Member and Vendor. NJPA, its agents, and employees shall not be made a party to any claim for breach of such agreement. Product sourcing is not considered a service. NJPA Members will need to conduct procurements for any specialized services not identified as a part of or within the scope of the awarded Contract.

7.5 Performance Bond. At the request of the Member, a Vendor will provide all performance bonds typically and customarily required in their industry. These bonds will be issued pursuant to the

requirements of purchase orders for products and services. If a purchase order is cancelled for lack of a required performance bond by the member agency, NJPA recommends that the current pending purchase order be canceled. Each Member has the final decision on purchase order continuation. Any performance bonding required by the Member, the Member's state laws, or by local policy is to be mutually agreed upon and secured between the Vendor and the Member.

7.6 Asset Management Contracts: Asset Management-type Contracts can be initiated under a Contract resulting from this RFP at any time during the term of this Contract. Such a contract could involve, for example, picking up, storing, repairing, inventorying, salvaging, and delivery products falling within the scope of this Contract. The intention in using Asset Management Contracts is to promote the long-term efficiency of NJPA's contracts by (among other things) extending the use and re-use of products. Asset Management Contracts cannot be created under this Contract unless they are executed within the authorized term of a Contract resulting from this RFP. The actual term of the Asset Management Contract may, however, extend beyond the expiration date of this Contract.

B. NJPA MEMBER SIGN-UP PROCEDURE

7.6 Awarded Vendors are responsible for familiarizing their sales and service forces with the various forms of NJPA membership documentation and will encourage and assist potential Members in establishing membership with NJPA. NJPA membership is available at no cost, obligation, or liability to the Member or the Vendor.

C. REPORTING OF SALES ACTIVITY

7.7 Awarded Vendors must report at least quarterly the total gross dollar volume of all products and services purchased by NJPA Members as it applies to this RFP and Contract . This report must include the name and address of the purchasing agency, Member number, amount of purchase, and a description of the items purchased.

7.7.1 Zero sales reports : Awarded Vendors must provide a quarterly Contract sales report regardless of the amount of sales.

D. AUDITS

7.8 NJPA relies substantially on the reasonable auditing efforts of both Members and awarded Vendors to ensure that Members are obtaining the products, services, pricing, and other benefits under all NJPA contracts. Nonetheless, the Vendor must retain and make available to NJPA all order and invoicing documentation related to purchases that Members make from the Vendor under the awarded Contract. NJPA must not request such information more than once per calendar year, and NJPA must make such

requests in writing with at least fourteen (14) days' notice. NJPA may employ an independent auditor at its own expense or conduct an audit on its own. In either event, the Vendor agrees to cooperate fully with NJPA or its agents in order to ensure compliance with this Contract.

E. HUB PARTNER

7.9 Hub Partner: NJPA Members may request special services through a "Hub Partner" for the purpose of complying with a law, regulation, or rule that an NJPA Member deems to apply in its jurisdiction. Hub Partners may bring value to the proposed transactions through consultancy, through qualifying for disadvantaged business entity credits, or through other means.

7.10 Hub Partner Fees: NJPA Members are responsible for any transaction fees, costs, or expenses that arise under this Contract for special service provided by the Hub Partner. The fees, costs, or expenses levied by the Hub Vendor must be clearly itemized in the transaction documentation. To the extent that the Vendor stands in the chain of title during a transaction resulting from this RFP, the documentation must clearly indicate that the transaction is "Executed for the Benefit of [NJPA Member name]."

F. TRADE-INS

7.11 The value in US Dollars for Trade-ins will be negotiated between NJPA or an NJPA Member, and an Awarded Vendor. That identified "Trade-In" value shall be viewed as a down payment and credited in full against the NJPA purchase price identified in a purchase order issued pursuant to any Awarded NJPA procurement contract. The full value of the trade-in will be consideration.

G. OUT OF STOCK NOTIFICATION

7.12 The Vendor must immediately notify NJPA Members when they order an out-of-stock item. The Vendor must also tell the Member when the item will be available and whether there are equivalent substitutes. The Member must have the option of accepting the suggested substitute or canceling the item from the order. Under no circumstance may the Vendor make unauthorized substitutions. Unfilled or substituted items must be indicated on the packing list.

H. CONTRACT TERMINATION FOR CAUSE AND WITHOUT CAUSE

7.13 NJPA reserves the right to cancel all or any part of this Contract if the Vendor fails to fulfill any material obligation, term, or condition as described in the following procedure. Before any such termination for cause, the NJPA will provide written notice to the Vendor, an opportunity to respond, and

a reasonable opportunity to cure the breach. The following are some examples of material breaches.

7.13.1 The Vendor provides products or services that do not meet reasonable quality standards and that are not remedied under the warranty;

7.13.2 The Vendor fails to ship the products or to provide the services within a reasonable amount of time;

7.13.3NJPA reasonably believes that the Vendor will not or cannot perform to the requirements or expectations of the Contract, NJPA issues a request for assurance, and the Vendor fails to respond;

7.13.4 The Vendor fails to fulfill any of the material terms and conditions of the Contract;

7.13.5 The Vendor fails to follow the established procedure for purchase orders, invoices, or receipt of funds as established by NJPA and the Vendor;

7.13.6 The Vendor fails to properly report quarterly sales;

7.13.7 The Vendor fails to actively market this Contract within the guidelines provided in this RFP and defined in the NJPA contract launch.

7.14 Upon receipt of the written notice of breach, the Vendor will have ten (10) business days to provide a satisfactory response to NJPA. If the Vendor fails to reasonably address all issues in the written notice, NJPA may terminate the Contract immediately.. If NJPA allows the Vendor more time to remedy the breach, such forebearance does not limit NJPA's authority to immediately terminate the Contract for continued breaches for which notice was given to the Vendor. Termination of the Contract for cause does not relieve either party of the financial, product, or service obligations incurred before the termination.

7.16 NJPA may terminate the Contract if the Vendor files for bankruptcy protection or is acquired by an independent third party. The Vendor must disclose to NJPA any litigation, bankruptcy, or suspensions/disbarments that occur during the Contract period. Failure to disclose such information authorizes NJPA to immediately terminate the Contract.

7.17 NJPA may terminate the Contract without cause by giving the Vendor sixty (60) days' written notice of termination. Termination of the Contract without cause does not relieve either party of the financial, product, or service obligations incurred before the termination.

7.18 NJPA may immediately terminate any Contract without further obligation if any NJPA employee significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of NJPA has colluded with any Proposer for personal gain. NJPA may also immediately cancel a Contract if it finds that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Vendor or any agent or representative of the Vendor, to any employee of NJPA. Such terminations are effective upon written notice from NJPA or at a later date designated in the notice. Termination of the Contract does not relieve either party of the financial, product, or service obligations incurred before the

termination.

VIII. General Terms and Conditions

Point Value: 0

A. ADVERTISING A CONTRACT RESULTING FROM THIS RFP

8.1 Proposer/Vendor must not advertise or publish information concerning this Contract before the award is announced by NJPA. Once the award is made, a Vendor is expected to advertise the awarded Contract to both current and potential NJPA Members.

B. APPLICABLE LAW

8.2 This section has been deleted.

8.3 NJPA Compliance with Minnesota Procurement Law : NJPA has designed its procurement process to comply with best practices in the State of Minnesota. NJPA's solicitation methods are also created to comply with many of the various requirements that our Members must satisfy in their own procurement processes. But these requirements may differ considerably and may change from timt to time. So each NJPA Member must make its own determination whether NJPA's solicition process satisfies the procurement rules in the Member's jurisdiction.

8.4 Governing law with respect to delivery and acceptance: All applicable portions of the Minnesota Uniform Commercial Code, all other applicable Minnesota laws, and the applicable laws and rules of delivery and inspection of the Federal Acquisition Regulations (FAR) laws will govern NJPA contracts resulting from this solicitation.

8.5 Jurisdiction: Any claims that arise against NJPA pertaining to this RFP, and any resulting contract that develops between NJPA and any other party, must be brought only in courts in Todd County in the State of Minnesota unless otherwise agreed to.

8.5.1 Purchase orders or other agreements created pursuant to a contract resulting from this solicitation must be construed in accordance with, and governed by, the laws of the issuing Member. Any claim arising from such a purchase order or agreement must be filed and venued in a court of competent jurisdiction of the Member unless otherwise agreed to.

8.8 Indemnification: Each party is responsible for its own acts and is not responsible for the acts of the other party and the results thereof. NJPA's liability is governed by the Minnesota Tort Claims Act (Minn. Stat. §3.736) and other applicable law.

8.9 Prevailing wage: The Vendor must comply with applicable prevailing wage legislation in effect in

the jurisdiction of the NJPA Member. The Vendor must monitor the prevailing wage rates as established by the appropriate federal governmental entity during the term of this Contract and adjust wage rates accordingly.

8.10 Patent and copyright infringement: The Vendor agrees to indemnify and hold harmless NJPA and NJPA Members against any and all suits, claims, judgments, and costs instituted or recovered against the Vendor, NJPA, or NJPA Members by any person on account of the use or sale of any articles by NJPA or NJPA Members if the Vendor supplied such articles in violation of applicable patent or copyright laws.

C. ASSIGNMENT OF CONTRACT

8.11 No right or interest in this Contract may be assigned or transferred by the Vendor without prior written permission by the NJPA. No delegation of any duty of the Vendor under this Contract may be made without prior written permission of the NJPA. NJPA will notify Members by posting approved assignments on the NJPA website (www.njpacoop.org).

8.12 If the original Vendor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor-in-interest must perform all obligations under this Contract. NJPA reserves the right to reject the acquiring entity as a Vendor. A change of name agreement will not change the contractual obligations of the Vendor.

D. LIST OF PROPOSERS

8.13 This section has been deleted.

E. CAPTIONS, HEADINGS, AND ILLUSTRATIONS

8.14 The captions, illustrations, headings, and subheadings in this RFP are for convenience and ease of understanding and in no way define or limit the scope or intent of this request.

F. DATA PRACTICES

8.15 All materials submitted in response to this RFP become NJPA's property and become public records (under Minn. Stat. §13.591) after the evaluation process is completed. If the Proposer submits information in response to this RFP that it requests to be classified as nonpublic information (as defined by the Minnesota Government Data Practices Act, Minn. Stat. §13.37), the Proposer must meet the

following requirements.

8.15.1 The Proposer must make the request within thirty (30) days of the award/nonaward notification, and include the appropriate statutory justification. Pricing, marketing plans, and financial information is generally not redactable. The NJPA Legal Department will review the request to determine whether the information can be withheld or redacted. If NJPA determines that it must disclose the information upon a proper request for such information, NJPA will inform the Proposer of such determination.

8.15.2 The Proposer must defend any action seeking release of the materials that it believes to be nonpublic information, and it must indemnify and hold harmless NJPA, its agents, and employees, from any judgments or damages awarded against NJPA in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the term of any contract awarded under this RFP. In submitting a response to this RFP, the Proposer agrees that this indemnification survives as long as NJPA possesses the confidential information.

G. ENTIRE AGREEMENT

8.17 This Contract, as defined herein, constitutes the entire agreement between the parties to this Contract. A Contract resulting from this RFP is formed when the NJPA Board of Directors approves and signs the applicable Contract Award & Acceptance document (Form E).

H. FORCE MAJEURE

8.18 Except for payments of sums due, neither party is liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented due to force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence including, but not limited to, the following: acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, snow, earthquakes, tornadoes or violent wind, tsunamis, wind shears, squalls, Chinooks, blizzards, hail storms, volcanic eruptions, meteor strikes, famine, sink holes, avalanches, lockouts, injunctions-intervention-acts, terrorist events or failures or refusals to act by government authority and/or other similar occurrences where such party is unable to prevent by exercising reasonable diligence. The force majeure is deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and is deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with a Contract resulting from this RFP. Force majeure does not include late deliveries of products and services caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or other similar occurrences. If either party is delayed at any time by force majeure, then the delayed party must (if possible) notify the other party of such delay within forty-eight (48) hours.

8.19 through 8.20 These sections have been deleted.

K. LICENSES

8.21 The Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with NJPA and NJPA Members.

8.22 All responding Proposers must be licensed (where required) and must have the authority to sell and distribute the offered products and services to NJPA and NJPA Members. Documentation of the required licenses and authorities, if applicable, should be included in the Proposer's response to this RFP.

L. MATERIAL SUPPLIERS AND SUB-CONTRACTORS

8.23 The awarded Vendor must supply the names and addresses of sourcing suppliers and sub-contractors as a part of the purchase order when requested by NJPA or an NJPA Member.

M. NON-WAIVER OF RIGHTS

8.24 No failure of either party to exercise any power given to it hereunder, nor a failure to insist upon strict compliance by the other party with its obligations hereunder, nor a custom or practice of the parties at variance with the terms hereof, nor any payment under a Contract resulting from this RFP constitutes a waiver of either party's right to demand exact compliance with the terms hereof. Failure by NJPA to take action or to assert any right hereunder does not constitute a waiver of such right.

N. PROTESTS OF AWARDS MADE

8.25 And protests must be filed with NJPA's Executive Director and must be resolved in accordance with appropriate Minnesota rules. Protests will only be accepted from Proposers. A protest of an award or nonaward must be filed in writing with NJPA within ten (10) calendar days after the public notice or announcement of the award or nonaward. A protest must include the following items.

8.25.1 The name, address, and telephone number of the protester;

8.25.2 The original signature of the protester or its representative (you must document the authority of the representative);

8.25.3 Identification of the solicitation by RFP number;

8.25.4 Identification of the statute or procedure that is alleged to have been violated;

8.25.5 A precise statement of the relevant facts;

8.25.6 Identification of the issues to be resolved;

8.25.7 The aggrieved party's argument and supporting documentation;

8.25.8 The aggrieved party's statement of potential financial damages; and

8.25.9 A protest bond in the name of NJPA and in the amount of 10% of the aggrieved party's statement of potential financial damages.

O. SUSPENSION OR DISBARMENT STATUS

8.26 If within the past five (5) years, any firm, business, person or Proposer responding to an NJPA solicitation has been lawfully terminated, suspended, or precluded from participating in any public procurement activity with a federal, state, or local government or education agency, the Proposer must include a letter with its response setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter or to disclose pertinent information may result in the termination of a Contract. By signing the proposal affidavit, the Proposer certifies that no current suspension or debarment exists.

P. AFFIRMATIVE ACTION AND IMMIGRATION STATUS CERTIFICATION

8.27 An Affirmative Action Plan, Certificate of Affirmative Action, or other documentation regarding Affirmative Action may be required by NJPA or NJPA Members relating to a transaction from this RFP. Vendors must comply with any such requirements or requests.

8.28 Immigration Status Certification may be required by NJPA or NJPA Members relating to a transaction from this RFP. Vendors must comply with any such requirements or requests.

Q. SEVERABILITY

8.29 In the event that any of the terms of a Contract resulting from this RFP are in conflict with any rule, law, or statutory provision, or are otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms will be deemed stricken from the Contract, but such

invalidity or unenforceability shall not invalidate any of the other terms of an awarded Contract resulting from this RFP.

R. RELATIONSHIP OF PARTIES

8.30 No Contract resulting from this RFP may be considered a contract of employment. The relationship between NJPA and an awarded Vendor is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. The parties neither intend the proposed Contract to create, nor is to be construed as creating, a partnership, joint venture, master-servant, principal-agent, or any other, relationship. Except as provided elsewhere in this RFP, neither party may be held liable for acts of omission or commission of the other party and neither party is authorized or has the power to obligate the other party by contract, agreement, warranty, representation, or otherwise in any manner whatsoever except as may be expressly provided herein.

IX. Form A - Proposer Questionnaire

Point Value: 0

PROPOSER QUESTIONNAIRE- General Business Information

*(Products, Pricing, Sector Specific, Services, Terms and Warranty are addressed on **Form P**)*

NJPA prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation). Please create a response that is easy to read and understand. For example, you may consider using a different font and color to distinguish your answer from the questions.

1. Proposer Name and Questionnaire Completed by:

Priority: 3. Response Type: Text.

2. Person NJPA should correspond with from now through Award process? (Name, Email Address)

Priority: 3. Response Type: Text.

3. Provide the full legal name, mailing and email addresses, tax identification number, and telephone number for your business.

Priority: 3. Response Type: Text.

4. Provide a brief history of your company, including your company's core values, business philosophy, and longevity in the NAME OF SOLICITATION industry.

Priority: 3. Response Type: Text.

5. Provide a detailed description of the products and services that you are offering in your proposal.
Priority: 3. Response Type: Text.

6. What are your company's expectations in the event of an award?
Priority: 3. Response Type: Text.

7. Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters.
Priority: 3. Response Type: Text.

8. Has your business ever petitioned for bankruptcy protection? Please explain in detail.
Priority: 3. Response Type: Text.

9. How is your organization best described? (Answer whichever question below, either (a) or (b), best applies to your organization)
Priority: 3. Response Type: Choose from a List. Organization Type. Comment? yes

10. (a) If your company is best described as a distributor/dealer/reseller (or similar entity), please provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?
Priority: 3. Response Type: Text.

11. (b) If your company is best described as a manufacturer or service provider, please describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?
Priority: 3. Response Type: Text.

12. If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.
Priority: 3. Response Type: Text.

13. Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.
Priority: 3. Response Type: Text.

14. Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.
Priority: 3. Response Type: Text.

15. Describe any relevant industry awards or recognition that your company has received in the past five years.
Priority: 3. Response Type: Text.

16. Supply three references/testimonials from your customers who are eligible for NJPA membership. At a minimum, please include the entity's name, contact person, and phone number.
Priority: 3. Response Type: Text.

17. Provide a list of your top five governmental or educational customers (entity name is optional), including entity type, the state the entity is located in, scope of the projects, size of transactions, and dollar volumes from the past three years.
Priority: 3. Response Type: Text.

18. Indicate separately what percentages of your sales are to the government and education sectors in the past three years?
Priority: 3. Response Type: Text.

19. List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?
Priority: 3. Response Type: Text.

20. List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?
Priority: 3. Response Type: Text.

21. Describe your company's capability to meet NJPA Member's needs across the country. Your response should address at least the following areas: a) Sales force b) Dealer network or other distribution methods c) Service force. Please include details, such as the locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employers (or employees of a third party), and any overlap between the sales and service functions.
Priority: 3. Response Type: Text.

22. Describe in detail the process and procedure of your customer service program, if applicable. Please include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.
Priority: 3. Response Type: Text.

23. Identify any geographic areas of the United States or NJPA Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Please explain. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?
Priority: 3. Response Type: Text.

24. Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.
Priority: 3. Response Type: Text.

25. If you are awarded a contract, how will you train your sales management, dealer network, and direct sales teams (whichever apply) to ensure maximum impact? Please include how you will communicate your NJPA pricing and other contract detail to your sales force nationally.
Priority: 3. Response Type: Text.

26. Describe your marketing strategy for promoting this contract opportunity. Please include representative samples of your marketing materials in electronic format.
Priority: 3. Response Type: Text.

27. Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.
Priority: 3. Response Type: Text.

28. In your view, what is NJPA's role in promoting contracts arising out of this RFP? How will you integrate an NJPA-awarded contract into your sales process?
Priority: 3. Response Type: Text.

29. Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.
Priority: 3. Response Type: Text.

30. Describe any product, equipment, maintenance, or operator training programs that you offer to NJPA Members. Please include details, such as whether training is standard or optional, who provides training, and any costs that apply.
Priority: 3. Response Type: Text.

31. Describe any technological advances that your proposed products or services offer.
Priority: 3. Response Type: Text.

32. Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.
Priority: 3. Response Type: Text.

33. Describe any Women or Minority Business Entity (WMBE) or Small Business Entity (SBE) accreditations that your company or hub partners have obtained.
Priority: 3. Response Type: Text.

34. What unique attributes does your company, your products, or your services offer to NJPA Members? What makes your proposed solutions unique in your industry as it applies to NJPA members?
Priority: 3. Response Type: Text.

35. Identify your ability and willingness to provide your products and services to NJPA member agencies in Canada.
Priority: 3. Response Type: Text.

X. Form B - Proposer Information

Point Value: 0

Proposer Information

1. Company Name, Address, City/State/Zip, Phone, Fax, Toll-Free, Email, Website

Priority: 3. Response Type: Text.

2. Authorized Signer for your organization: Name, Email, Phone (person identified here must have proper signing authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer)

Priority: 3. Response Type: Text.

3. Who prepared your RFP response: Name, Title, Email, Phone

Priority: 3. Response Type: Text.

4. Who is your company's primary contact for this proposal: Name, Title, Email, Phone

Priority: 3. Response Type: Text.

5. Other important contact information: Name, Title, Email, Phone

Priority: 3. Response Type: Text.

XI. Form C - Exceptions to Proposal, Terms, Conditions, and Solutions Request

Point Value: 0

Please fill out and upload completed Exceptions to Proposal, Terms, Conditions, and Solutions Request form.

Form C - Exceptions to Proposal, Terms, Conditions, and Solutions Request

1. Upload completed Form C

Priority: 3. Response Type: File Attachment. Comment? no

XII. Form D - Formal Offering of Proposal

Point Value: 0

Formal Offering of Proposal. To be completed and uploaded only by the Proposer.

Form D - Formal Offering of Proposal

1. Upload completed & signed Form D

Priority: 3. Response Type: File Attachment. Comment? no

XIII. Form F - Proposer Assurance of Compliance

Point Value: 0

Proposer Assurance of Compliance. Please fill out, sign, notarize and upload Proposal Affidavit Signature page

Form F - Proposer Assurance of Compliance

1. Upload signed and notarized Proposer's Affidavit
Priority: 3. Response Type: File Attachment. Comment? no

XIV. Form P - Proposer Questionnaire

Point Value: 0

PROPOSER QUESTIONNAIRE
Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

1. Proposer Name and Questionnaire Completed By:
Priority: 3. Response Type: Text.

2. What are your payment terms (if other please explain)?
Priority: 3. Response Type: Choose from a List. Payment Terms. Comment? yes

3. Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?
Priority: 3. Response Type: Text.

4. Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.
Priority: 3. Response Type: Text.

5. Do you accept the P-card procurement and payment process?
Priority: 3. Response Type: Choose from a List. Yes/No/Not Applicable. Comment? yes

6. If "Yes" for P-card is there any additional cost to NJPA members for using this process?
Priority: 3. Response Type: Choose from a List. Yes/No/Not Applicable. Comment? yes

7. Describe in detail your manufacture warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions below
Priority: 3. Response Type: Text.

8. Do your warranties cover all products, parts, and labor?
Priority: 3. Response Type: Choose from a List. Yes/No/Not Applicable. Comment? yes

9. Do your warranties impose usage restrictions or other limitations that adversely affect coverage?
Priority: 3. Response Type: Choose from a List. Yes/No/Not Applicable. Comment? yes

10. Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?
Priority: 3. Response Type: Text.

11. Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?
Priority: 3. Response Type: Text.

12. Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?
Priority: 3. Response Type: Text.

13. What are your proposed exchange and return programs and policies?
Priority: 3. Response Type: Text.

14. Describe any service contract options for the items included in your proposal.
Priority: 3. Response Type: Text.

15. Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)
Priority: 3. Response Type: Text.

16. Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.
Priority: 3. Response Type: Text.

17. The pricing offered in this proposal is: a) the same as the Proposer typically offers to an individual municipality, university, or school district. b) the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments. c) better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments. d) other than what the Proposer typicall offers (please describe).
Priority: 3. Response Type: Text.

18. Describe any quantity or volume discounts or rebate programs that you offer.
Priority: 3. Response Type: Text.

19. Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.
Priority: 3. Response Type: Text.

20. Identify any total cost of acquisition costs that are NOT included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.
Priority: 3. Response Type: Text.

21. If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.
Priority: 3. Response Type: Text.

22. Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery .
Priority: 3. Response Type: Text.

23. Describe any unique distribution and/or delivery methods or options offered in your proposal.
Priority: 3. Response Type: Text.

24. Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.
Priority: 3. Response Type: Text.

25. Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract; it is not a line item addition to the Member's cost of goods.
Priority: 3. Response Type: Text.

26. Describe all payment options—including frequency and methods of payment—and whether you allow electronic payments.
Priority: 3. Response Type: Text.

27. Provide information on any value-added tools and solutions that you offer NJPA Members related to fleet management, such as telematics or data analytics.
Priority: 3. Response Type: Text.

28. Describe the controls at the transactional level that assist with mitigating fraud, waste, and abuse.
Priority: 3. Response Type: Text.

29. NJPA Members must operate in such a way as to, for example, maintain tax exempt-status, generate proper reporting, and eliminate fraud and abuse. Provide the percentage of Level 3 Data for fuel and maintenance transactions that you are able to meet with no site exclusions.
Priority: 3. Response Type: Text.

30. To ensure that Members receive the best data, describe your online management tools and reporting capabilities. Describe your ability to provide data validations on key data elements such as odometer readings, which help ensure the accuracy of data for vehicle analysis.
Priority: 3. Response Type: Text.

31. Describe your ability to provide files to interface with our Members' fleet-management systems.
Priority: 3. Response Type: Text.

32. NJPA Members may require vendors to interface with privately owned fueling facilities. Describe your ability to seamlessly interface data for private-site fuel locations.
Priority: 3. Response Type: Text.

33. Describe the unique advantages of any virtual payment tool (if offered) in comparison to other fleet-settlement services.
Priority: 3. Response Type: Text.

XV. Appendix A

Point Value: 0

NJPA The National Joint Powers Alliance ® (NJPA), on behalf of NJPA and its current and potential Member agencies, which includes all governmental, higher education, K-12 education, not-for-profit, tribal governmental, and all other public agencies located in all fifty states, Canada, and internationally, issues this Request For Proposal (RFP) to result in a national contract solution.

For your reference, the links below include some, but not all, of the entities included in this proposal.

http://www.usa.gov/Agencies/Local_Government/Cities.shtml
http://nces.ed.gov/globallocator/
https://harvester.census.gov/imls/search/index.asp
http://nccsweb.urban.org/PubApps/search.php
http://www.usa.gov/Government/Tribal-Sites/index.shtml
http://www.usa.gov/Agencies/State-and-Territories.shtml
http://www.nreca.coop/about-electric-cooperatives/member-directory/
Oregon
Hawaii
Washington

XVI. Amended Form D

Point Value: 0

Amended Form D

Please find an Amended Form D. Please use this version as the previous version does not have the RFP

title or number listed. Thank you.

XVII. Pre-Proposal Conference

Point Value: 0

Log-in information for the Pre-Proposal Conference 4-6-16 at 10 AM CT
Date and Time:
Wednesday, April 6, 2016 10:00 am, Central Daylight Time (Chicago, GMT-05:00)
Wednesday, April 6, 2016 11:00 am, Eastern Daylight Time (New York, GMT-04:00)
Wednesday, April 6, 2016 9:00 am, Mountain Daylight Time (Denver, GMT-06:00)
Wednesday, April 6, 2016 8:00 am, Pacific Daylight Time (San Francisco, GMT-07:00)

Event number: 660 966 463
Event password: This event does not require a password.
Event address for attendees: https://njpa.webex.com/njpa/onstage/g.php?MTID=ef1...

Audio conference information

US TOLL: +1-415-655-0001
Global call-in numbers: https://njpa.webex.com/njpa/globalcallin.php?servi...
Access code: 660 966 463

XVIII. Addendum: Clarification on expected annual contract volume

Point Value: 0

Section 5.2 of this RFP, which relates to expected annual contract volume, was inadvertently left blank. This section in its entirety should read as follows:

5.2 This RFP requests pricing for an indefinite quantity of products or related services with potential national sales distribution and service. While most RFP categories represent significant sales opportunities, NJPA makes no guarantees about the quantity of products or services that members will purchase. **The estimated annual value of this contract is $72,400,000.**

1. Confirm below you have read this.

Priority: 3. Response Type: Text.

XIX. Pre-Proposal Slides

Point Value: 0

Pre-Proposal Slides

ADDENDUM TO THE FUEL CARD SERVICES AGREEMENT BETWEEN WEX BANK, FORMERLY WRIGHT EXPRESS FINANCIAL SERVICES CORPORATION ("WEX") AND SOURCEWELL, FORMERLY THE NATIONAL JOINT POWERS ALLIANCE ("NJPA") ("SOURCEWELL")

ITEM #M-3

CREDIT INFORMATION

Participating Entity has requested a credit account pursuant to the Vendor Agreement #04216-WEX ("Agreement") entered into between Sourcewell (formerly the National Joint Powers Alliance ("NJPA") ("Sourcewell") and WEX Bank, formerly Wright Express Financial Services Corporation ("WEX") and thereby creating the program ("Program") by which to enroll participants ("Participating Entity"). By enrolling in this Program, the Participating Entity named below agrees that in the event their account is not paid as agreed, WEX may report the undersigned's liability for and the status of the account to credit bureaus and others who may lawfully receive such information.

Participating Entity	Phone #	Fax#
City of Oxnard	805-385-8280	805-3857907

Headquarters Name and Physical Address (Do not include PO Box)
300 West Third Street, Oxnard, CA 93030

Sourcewell (fka NJPA) Member ID Number	Applicant's Taxpayer ID # (TIN, FEIN or SSN)
25781	95-6000756

In Business Since (yyyy)	Year of Incorporation (yyyy)	Number of Vehicles	Avg Monthly Fuel Expenditures	Avg Monthly Service Expenditures
	1903	Approx 450	$210,000	$NA

ACCOUNT SETUP INFORMATION

Write Participating Entity name as you wish it to appear on cards. Limit of 20 characters & spaces. Unless specified, no company name will appear on cards.

City of Oxnard

Billing Contact	Billing Address	City	State	Zip+4
Bill Birch	1060 Pacific Ave, Bldg #2	Oxnard	CA	93030

Designate the Fleet Contact authorized to receive all charge cards, reports, and other such information we provide from time to time and to take actions with respect to your account and account access. This is also the person designated by your company to provide all fleet vehicles, driver and other information we may request.

Authorized Fleet Contact Name	Title	Phone #	Fax #
Bill Birch	Fleet Services Manager	805-385-8080	805-385-8053

Mailing Address (if different from billing address)	City	State	Zip+4
1060 Pacific Ave, Bldg #2	Oxnard	CA	93030

Email address (required to take advantage of product type card controls)
bill.birch@oxnard.org

☐ Check here if business is exempt from motor fuels tax

TERMS

1. This Addendum ("Addendum") is to allow the Participating Entity to participate under the Agreement between WEX and Sourcewell. It does not modify, amend or change the Agreement in any way.
2. Participating Entity hereby requests the services of WEX described in the Agreement and agrees to perform all duties required under the Agreement, including, without limitation, timely payment of all charges (including any additional fees) on its account(s). Participating Entity agrees to be bound by the terms and conditions of the Agreement, including, without limitation, rules for authorized and unauthorized use of cards, disputes of charges, reporting lost and stolen cards, and all other rules and provisions relating to use of Participating Entity's account.
3. Participating Entity acknowledges that its failure to make timely payment in accordance with the terms of the Agreement, or for government entities subject to a Prompt Payment Act, may result in suspension or cancellation of the account(s).
4. INFORMATION SHARING DISCLOSURE: Information regarding Participating Entity transactions may be provided to Sourcewell accepting merchants or their service providers.
5. Compliance with Federal Law: Our bank complies with federal law which requires all financial institutions to obtain, verify, and record information that Identifies each company or person who opens an account. What this means for Participating Entity: when you open an account, we will ask for your name, Address, date of birth, and other information that allow us to identify you. We may ask to see your driver's license or other identifying documents for your Business.
6. DISCLAIMER: **THIS IS AN APPLICATION FOR SERVICES AND SHALL NOT BE BINDING UPON WEX UNTIL FINAL CREDIT APPROVAL HAS BEEN GRANTED BY WEX.**
7. This Addendum shall become effective August 14, 2018.

Any person signing on behalf of the Participating Entity has been duly authorized by all necessary action of Participating Entity's governing body, and that the undersigned is authorized to make this application and accept the terms referenced herein on behalf of the Participating Entity.

Signature: _____ Print Name: _____

Title: _____ Date: _____

Complete and sign addendum. Fax to 1-866-527-8873.

FOR OFFICE USE ONLY	Oppty Number	Sales Code	Plastic Type	Coupon Code	Account Number
			SOURCEWELL		04

04.ADDEND.CRDAPP (08/2018)

DocuSign Envelope ID: 375B16CE-E1A3-41F5-9227-A45E5132CA0F

Letter of Agreement
To Extend the Contract

Between

WEX Bank
7090 South Union Park Center
Suite 350
Midvale, UT 84047

And

Sourcewell, Formerly National Joint Powers Alliance (NJPA)
202 12th Street NE
Staples, MN 56479
Phone: (218) 894-1930

The Vendor and Sourcewell have entered into an Agreement (Contract #042016-WEX) for the procurement of Fuel Card with Related Vehicle Fuel Management, Transaction, and Payment Settlement/Processing Services. This Agreement has an expiration date of July 20, 2020, but the parties may extend the Agreement for one additional year by mutual consent.

The parties acknowledge that extending the Agreement for another year benefits the Vendor, Sourcewell and Sourcewell's members. The Vendor and Sourcewell therefore agree to extend the Agreement listed above for a fifth year. This existing Agreement will terminate on July 20, 2021. All other terms and conditions of the Agreement remain in force.

Sourcewell, Formerly National Joint Powers Alliance (NJPA)

DocuSigned by:
By: Jeremy Schwartz C0FD2A139D00489..., Its: **Director of Operations & Procurement/CPO**

Name printed or typed: **Jeremy Schwartz**

Date 6/10/2019 | 5:07 PM CDT

WEX Bank

By: _____, Its: President/CEO

Name printed or typed: Tim Laukka

Date 6/5/19

APPROVED
By Eleanor Duffus at 10:07 am, Jun 05, 2019

Form C

ITEM #M-3

EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS, AND SOLUTIONS REQUEST

Company Name: WEX Bank

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS
6.26/pg 24	Subcontractors	WEX cannot confirm that the insurance coverages of all its subcontractors meet the minimum requirements listed in the RFP for WEX. Depending on the type of work a subcontractor is doing, maintaining the same limits as WEX may not be appropriate.	See Clarification #1
7.1/pg 26	Purchase Orders	WEX does not utilize against Purchase Orders. As is done under the current agreement with NJPA, piggy back agreements or standalone agreements will be issued between WEX and any applicable NJPA Member.	NJPA Accepts
7.5/pg 27	Performance Bond	Performance Bonds are not typically and customarily required in our industry and as such we will not agree to provide any Performance Bonds.	NJPA Accepts
7.6/pg 28	NJPA Member Sign-up Procedure	WEX can facilitate potential members in establishing their membership with NJPA by directing the potential member to the NJPA website and/or providing NJPA contact information.	NJPA Accepts
7.8/pg 28	Audits	WEX would only allow NJPA to audit member information with proof that each member has granted NJPA permission to view its transaction/invoice data.	NJPA Accepts

Proposer's Signature: _____ **Date:** April 18, 2016

LEGAL
Initials
6/9/16
Date

NJPA's clarification on exceptions listed above:

NJPA Clarifications:

1. The subcontractors are subject to the minimum requirements as stated in 6.26. The limits may be changed based on the work if agreed upon between the Member and a specific subcontractor and/or Vendor at the PO level.

Contract Award
RFP 042016

FORM D

Formal Offering of Proposal
(To be completed only by the Proposer)

FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICES

In compliance with the Request for Proposal (RFP) for FUEL CARD WITH RELATED VEHICLE FUEL MANAGEMENT, TRANSACTION, AND PAYMENT SETTLEMENT/ PROCESSING SERVICES the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: WEX Bank Date: April 13, 2016

Company Address: 7090 South Union Park Center, Suite 350

City: Midvale State: UT Zip: 84047

Contact Person: Denise Baumgart Title: Government Account Manager

Authorized Signature: Bernie Kavanagh, Contracting Agent
(Name printed or typed)

APPROVED AS TO FORM

FORM E
CONTRACT ACCEPTANCE AND AWARD

(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 042016-WEX

Proposer's full legal name: WEX Bank

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be July 20, 2016 and will expire on July 20, 2020 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:

NJPA DIRECTOR OF COOPERATIVE CONTRACTS AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)

NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
(NAME PRINTED OR TYPED)

Awarded on May 26, 2016

NJPA Contract # 042016-WEX

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name WEX Bank

Authorized Signatory's Title President/CEO

VENDOR AUTHORIZED SIGNATURE

Kirk S. Weiler
(NAME PRINTED OR TYPED)

Executed on May 27, 2016

NJPA Contract # 042016-WEX

APPROVED
By AGannon at 11:07 am, May 27, 2016

Form F

PROPOSER ASSURANCE OF COMPLIANCE

Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.

2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.

3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.

4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.

5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwiseagreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.

6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: WEX Bank

Address: 7090 South Union Park Center, Suite 350

City/State/Zip: Midvale, UT 84047

Telephone Number: 888-842-0075

E-mail Address: Denise Baumgart, Government Account Manager: denise.baumgart@wexinc.com

Authorized Signature:

Authorized Name (printed): Bernie Kavanagh

Title: Contracting Agent

Date: April 13, 2016

Notarized

APPROVED AS TO FORM

Subscribed and sworn to before me this 13th day of April, 2016

Notary Public in and for the County of Cumberland State of Maine

My commission expires:

STEPHANIE E. WOOD
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES 04/01/2021

Signature: Stephanie E. Wood

- Couch-Tard/Circle K (600 sites)
- Petroles Crevier (25 sites)
- XTR Energy/Gulf (153 sites)
- 7-Eleven (197 sites)
- EKO (125 sites)
- Wilsons Fuel (81 sites)
- Western Petroleum (76 sites)
- South West Fuels (60 sites)
- Centex Petroleum (50 sites)
- Hughes Petroleum (25 sites)

WEX has also entered into a definitive agreement to acquire Electronic Funds Source LLC (EFS). EFS provides customized corporate payment solutions for fleet and corporate customers with a focus on the large and mid-sized fleet segments. EFS has established a proprietary network of over 14,000 accepting locations in the U.S. and Canada for the over the road (OTR) fleet industry and services a diverse base of more than 17,000 customers.

Not Scored

P

1.

Company Name, Address, City/State/Zip, Phone, Fax, Toll-Free, Email, Website

This proposal is presented by WEX Bank, a Utah industrial bank formerly known as Wright Express Financial Services Corporation. WEX Bank is a wholly owned subsidiary of WEX Inc., a Delaware corporation formerly known as Wright Express Corporation. WEX Bank and WEX Inc. are collectively referred to herein as WEX.

WEX's contact information is as follows:

WEX Bank	**WEX Inc.**
7090 South Union Park Center, Ste 350	97 Darling Avenue
Midvale, Utah 84047	South Portland, Maine 04106
(888) 842-0075	(800) 761-7181

WEX's web site is www.wexinc.com.

For the purposes of this RFP, the primary contact via email is current NJPA Government Account Manager Denise Baumgart. Her email address is denise.baumgart@wexinc.com.

Not Scored

2.

Authorized Signer for your organization: Name, Email, Phone (person identified here must have proper signing authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer)

Bernie Kavanagh, Contracting Agent for WEX Bank

E: bernie.kavanagh@wexinc.com

P: 207-523-7377

Not Scored

3.

Who prepared your RFP response: Name, Title, Email, Phone

Denise Baumgart, Government Account Manager

E: Denise.Baumgart@wexinc.com

P: 913-393-3208

Not Scored

4.

Who is your company's primary contact for this proposal: Name, Title, Email, Phone

Denise Baumgart, Government Account Manager

E: Denise.Baumgart@wexinc.com

P: 913-393-3208

Not Scored

Other important contact information: Name, Title, Email, Phone

N/A.

Score 0

3.

Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

N/A for the WEX fleet card program. We do offer leasing and financing options for WEX Telematics solutions.

Not Scored

4.

Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.

After an account is signed up through a participation addendum and implemented on the WEX card program, we capture the transaction data for each sale on the fleet card. This information is summarized by account for the quarterly reporting. WEX does not use a dealer network therefore all of this

information is captured by WEX and provided to NJPA quarterly in summary format.

Not Scored

5.

Do your warranties impose usage restrictions or other limitations that adversely affect coverage?

Not Applicable

10.

Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?

N/A

Not Scored

11.

Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?

N/A.

Not Scored

12.

Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?

N/A.

Not Scored

What are your proposed exchange and return programs and policies?

N/A.

Describe any service contract options for the items included in your proposal.

N/A.

15.

Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)

The WEX Fleet Card can be used to purchase fuel and fleet related services and products for the retail price at our accepting locations. We will provide NJPA members with rebates in accordance with the below. It is possible to qualify for A, B, both A and B, or neither. The pricing contained in this document supersedes that of the attached sample Business Charge Account Agreement. Please also see the current NJPA Agreement Addendum.

Definitions

"Monthly Gallons" shall mean all gallons of fuel purchased using Cards at retail locations that appear on invoices provided to you during a calendar month. Fuel purchased at Tier 1 Truck Stop locations (currently Flying J, Loves, Petro, and Pilot) are excluded from the Monthly Gallon amount. Due to billing cycle cut off dates and monthly calendar variances invoices received by you in a given month may contain transactions from the previous month and they may not contain all transactions that occurred during the month in which you were invoiced.

"Monthly Retail Transactions" shall mean the total amount of all purchases made using Cards at retail locations that appear on invoices provided to you in a calendar month. Monthly Retail Transactions shall not include: (i) those amounts representing credits, disputed items, fees, late fees or charges posted to your accounts (such as returned check fees, collection costs, administrative fees and reporting fees), (ii) fuel purchased at Tier 1 Truck Stop locations (currently Flying J, Loves, Petro, and Pilot), or (iii) any amounts posted to an account with respect to which a Card has been reported lost or stolen.

A. Volume Rebate

Subject to the express conditions below, we will issue a monthly rebate, paid one month in arrears, in the accordance with the below Rebate Table, off all non-state government NJPA members' Monthly Retail Transactions based on the table below (the "Rebate").

Rebate Table – Non-State Members

Monthly Spend	Basis Points (Rebate Percentage) to member
$0+	100 basis points (1.00%)

Conditions

The Rebate set forth herein is expressly conditioned on the following: (1) monthly billing; (2) payment in full within 26 calendar days of the billing date appearing on your invoice; (3) credit approval; and (4) signing a three-year contract.

WEX will review any act or law as it pertains to payment timing for the NJPA and its members. Upon review of such act or law WEX will agree that extended time to remit payment will NOT adversely affect the volume rebate available to NJPA members unless such act or law permits payment to be made in excess of 50 days from the billing date appearing on the invoice (i.e. 45

days from the date of receipt).

Calculation

We shall commence calculating the Volume Rebate as of the first day of the first billing cycle after an agreement becomes effective. The Rebate will be calculated by determining the Monthly Gallons to establish the applicable Rebate Percentage. The Rebate Percentage is multiplied by the total dollar amount of Monthly Retail Transactions to determine the Volume Rebate.

Payment

Rebates for international transactions shall be paid at a rate of 50% of the applicable Rebate Percentage. Rebates shall be paid to you monthly in arrears.

B. Payment Timing Rebate:

Subject to the express conditions below, we will issue a monthly rebate in accordance with the below Payment Timing Table off all Monthly Retail Transactions charged to NJPA members' accounts (the "Payment Timing Rebate").

Bill Presentment	Payment Timing Options	Basis Points (Rebate Percentage)
Monthly	Payment in full within 10 calendar days of the billing date appearing on your invoice.	6 basis points (0.06%)
Monthly	Payment in full within 5 calendar days of the billing date appearing on your invoice.	8 basis points (0.08%)

*Requires enrollment in WEX Direct Debit program.

Conditions

The Payment Timing Rebate set forth herein is expressly conditioned on the following: (1) electronic reporting (i.e. no paper reports); and (2) our receipt of payment in full in accordance with one of the Payment Timing Options in the Payment Timing Table.

Calculation

We shall commence calculating the Rebate as of the closing of the first billing cycle after an agreement becomes effective. The Rebate will be calculated by determining the Payment Timing and the applicable Rebate Percentage, then by multiplying the Rebate Percentage by the total dollar amount of Monthly

Retail Transactions.

Payment

Payment Timing Rebates for international transactions shall be paid at 50% of the applicable Rebate Percentage. Payment Timing Rebates shall be paid to you monthly in arrears.

Cycle Swaps

Our billing and payment system provides for various billing cycle and payment timing options. In the event you desire to change billing cycles you must make a request to Fleet Receivables for a billing cycle change. Upon receipt of the request it will be a minimum of thirty (30) business days to change the billing cycle. In addition, any changes to billing cycles will not take effect until after the current cycle has closed. Cycle changes cannot be made mid-month or mid-week from monthly to weekly billing cycles and cycle changes cannot be made mid-week or mid-month from weekly to monthly billing cycles. Cycle changes can only be made once per calendar year for each billing entity.

Other Discounts

You agree that the only financial incentive to which you will be entitled for the use of accounts will be the Financial Incentives described in this Agreement. Specifically you hereby waive the right to receive the discounts provided within the WEX Electronic Fleet Payment System Authorization Agreement other than what is described herein.

Billing and Payment

Purchases are due and payable in full within 26 days of the date appearing on your invoice. **WEX will review any act or law as it pertains to payment timing for the NJPA and its members. Upon review of such act or law WEX will agree that extended time to remit payment will NOT adversely affect the volume rebate available to NJPA members unless such act or law permits payment to be made in excess of 50 days from the billing date appearing on the invoice (i.e. 45 days from the date of receipt).**

Invoices include transactions that have posted to our system in your billing cycle and will not include all transactions that have been made in the billing cycle. Your account is delinquent if the balance is not paid within 26 days of the billing date appearing on your invoice.

Upon payment default, finance charges will be assessed at a monthly percentage rate of 2.99%. The periodic rate will be prorated based on the company's billing cycle. Issuer will begin to assess a finance charge on the first day following the date a payment is due and is not posted to the account. The finance charge will be calculated by determining the total balance due on the date the account becomes delinquent. The total balance due includes any additional charges and credits posted to the account since the last billing cycle through the payment due date and then subtracting any payments and/or

credits entered during that period for Company reported disputes or otherwise. The total balance due will be multiplied by the periodic rate to determine the account's finance charge. In the event that the calculated finance charge is less than seventy-five dollars ($75.00), a minimum finance charge of seventy-five dollars ($75.00) will be assessed.

If a payment is not received by the payment due date and the balance due is less than ten dollars ($10), a finance charge will not be assessed and the balance will carry forward to the following billing cycle. If additional charges are posted to the account, including other fees, and the new balance exceeds ten dollars ($10), a finance charge will be assessed on the new balance upon payment default.

WEX Universal Fleet Card Fee Schedule

Set-up Fee	WAIVED
Monthly Card Charge	WAIVED
Replacement Card	WAIVED
International Currency Conversion Fee	2% of the total transaction value
Reproduced Reports	$25.00 per request
General Research Fee	$15.00 per hour
Expedited Shipping Fees	Cost varies
Returned Payment Fee	$50.00 per occurrence
Over Credit Limit Fee	$5.00 per transaction or $100 flat fee per month[1]
Reactivation Fee	$50.00 per occurrence (max monthly fee of $50.00)
Truck Stop Fee	$3.00 per card swipe at a diesel pump[2]

Program Maintenance Charge	WAIVED
Paper Delivery Fee	$10.00 per month for paper invoicing and reporting

Pricing for additional products and services is available upon request or reflected on the enrollment forms or in the terms of use that you must agree to in order to receive the additional products and services.

[1]*You may choose to have a flat fee or a per transaction fee applied in the event that you exceed your credit line.*
[2]*Actual charges to be applied to your account will be disclosed on your billing statement.*

WEX FLEET CLEARVIEW PRICING
WEX Fleet ClearView is available to fleets for a per active card per month fee as follows:

1-999 cards: $0.80 per active card per month
1,000 to 9,999 cards: $0.60 per active card per month
10,000+ cards: $0.40 per active card per month

WEX PRIVATE SITE REBILLING
WEX Private Site Rebilling is available for a fee of $0.35 per transaction.

WEX VIRTUAL FINANCIAL INCENTIVES
Subject to the expressed conditions below, NJPA's member organizations may be entitled to a rebate (the "Rebate") based on total Annual Net Spend in accordance with the below Rebate Table. The Rebate is based on 30-day billing and 15-day payment. Please see the attached sample agreement.

Rebate Table

Annual Net Spend	Basis Points (Rebate Percentage) to member
$2,000,000 - $4,999,999	110 basis points (1.10%)
$5,000,000 - $14,999,999	115 basis points (1.15%)

$15,000,000 - $24,999,999	120 basis points (1.20%)
$25,000,000 - $49,999,999	130 basis points (1.30%)
$25,000,000+	135 basis points (1.35%)

Conditions

Member is eligible for the Rebate if it satisfies the following conditions:

(1) Member's Annual Net Spend must exceed **Two Million Dollars ($2,000,000)** in the Contract Year; and,

(2) Member's Average Transaction Size must equal or exceed **One Hundred Twenty Five Dollars ($125)**; and

(3) Member must not be in Default (as defined by Section 12.1) on the last day of the Contract Year.

(4) Issuer shall deduct from the Rebate any fraud or credit losses that we have suffered on Accounts whether or not such Accounts are individually or corporate billed.

(5) All transactions with Level 3 detail provided by the merchant will be accorded their full value when determining Annual Net Spend, however, when calculating the rebate all such transactions are accorded 60% of their face value. For example, a $10,000 transaction is treated as a $10,000 transaction in determining Annual Net Spend, but is treated as a $6,000 transaction when calculating the rebate.

(6) When calculating Rebates for purchases made in a country other than the U.S. via a US BIN, Issuer will use the full amount of the Transaction to determine Annual Net Spend but the applicable Rebate Percentage will be reduced by 50 basis points (0.50%) when paying the Rebate.

Calculation

The Rebate is calculated on the last day of the Contract Year utilizing the following steps:

The total Annual Net Spend is multiplied by the applicable Rebate Percentage to arrive at the Rebate. The Rebate Percentage is determined by the Rebate Table above, adjusted in accordance with the DSO.

For each day that the DSO is in excess of the number of days in the billing cycle, divided by two, plus the

number of payment due days, the Rebate Percentage will be reduced by one half of a basis point (0.005%).

For each day that the DSO is less than the number of days in the billing cycle, divided by two, plus the number of payment due days, the Rebate Percentage will be increased by one half of a basis point (0.005%).

Payment

The Rebate will be paid in the form of a check within forty-five (45) days of the end of the Contract Year.

WEX Virtual Fee Schedule

Monthly Account Fees	WAIVED
Overnight Shipping Fee 1	$25.00
Expedited Shipping Fee 2	$25.00
Cross Border Transaction Fee 3	0.90% of total Transaction value
Multi-Currency Conversion Fee 4	0.20% of total Transaction value
Copy Retrieval Fee	$5.00 per request
Returned Payment Fee (e.g. NSF/ACH)	$35.00 per incident

Fees or Charges for Additional Products or Features is Available Upon Request.

1-Overnight Shipping Fee: This fee applies for each card a Company requests from Issuer for overnight delivery (24 hours or less). If the request is made by Company to Issuer, then the Company will pay the overnight shipping fee imposed by Issuer.

2-Expedited Shipping Fee: This fee applies for each card shipment the Company requests from Issuer for expedited delivery. If the request is made by Company to Issuer, then the Company will pay the

Expedited Shipping Fee

3-Cross Border Fee: A cross border fee shall be applied to any Transaction when the country code of the merchant and the country code of the Account User are not the same.

4-Multi-Currency Conversion Fee: The payment platform provider multi-currency conversion fee shall be applied to any Transaction that is billed through the payment platform provider in a currency other than U.S. dollars. The payment platform provider will convert the Transaction to U.S. dollars (or the Account User billing currency) at the exchange rate determined by the payment platform provider (or its Affiliates) using its currency conversion procedure. The currency conversion rate (which is different from the Multi-Currency Conversion Fee) is generally either a wholesale market rate or a government-mandated rate in effect on the date of conversion. The currency conversion rate used on the conversion date may differ from the rate in effect on the date a Transaction is made.

WEX TELEMATICS PRICING

Please see the attached WEX Telematics Pricing and WEX Telematics Master Agreement.

Not Scored

16.

Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

N/A.

Not Scored

17.

The pricing offered in this proposal is: a) the same as the Proposer typically offers to an individual municipality, university, or school district. b) the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments. c) better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments. d) other than what the Proposer typicall offers (please describe).

B and C. Each contract we hold is individually priced, based on a number of variables: volume, length of contract, payment terms, current economic conditions, customization, cost to serve, etc. For this reason, the pricing proposed for this contract is the same or better than what we typically offer government procurement organizations and state purchasing departments

Not Scored

18.

Describe any quantity or volume discounts or rebate programs that you offer.

The WEX Fleet Card can be used to purchase fuel and fleet related services and products for the retail price at our accepting locations. We will provide NJPA members with rebates in accordance with the

below. It is possible to qualify for A, B, both A and B, or neither. The pricing contained in this document supersedes that of the attached sample Business Charge Account Agreement. Please also see the attached current NJPA Agreement Addendum.

Definitions

"Monthly Gallons" shall mean all gallons of fuel purchased using Cards at retail locations that appear on invoices provided to you during a calendar month. Fuel purchased at Tier 1 Truck Stop locations (currently Flying J, Loves, Petro, and Pilot) are excluded from the Monthly Gallon amount. Due to billing cycle cut off dates and monthly calendar variances invoices received by you in a given month may contain transactions from the previous month and they may not contain all transactions that occurred during the month in which you were invoiced.

"Monthly Retail Transactions" shall mean the total amount of all purchases made using Cards at retail locations that appear on invoices provided to you in a calendar month. Monthly Retail Transactions shall not include: (i) those amounts representing credits, disputed items, fees, late fees or charges posted to your accounts (such as returned check fees, collection costs, administrative fees and reporting fees), (ii) fuel purchased at Tier 1 Truck Stop locations (currently Flying J, Loves, Petro, and Pilot), or (iii) any amounts posted to an account with respect to which a Card has been reported lost or stolen.

A. Volume Rebate

Subject to the express conditions below, we will issue a monthly rebate, paid one month in arrears, in the accordance with the below Rebate Table, off all State Government NJPA members' Monthly Retail Transactions based on the tier established in the table below (the "Rebate").

WEX is pleased to offer the following rebate tiers for statewide contract adoption. These tiers would apply to statewide spend thresholds that aggregate the purchases by the state and local governments participating in the state's contract.

Monthly Spend	Basis Points (Rebate Percentage) to member
$0 - $1,499,999	130 basis points (1.30%)
$1,500,000 - $2,999,999	145 basis points (1.45%)
$3,000,000 - $4,499,999	150 basis points (1.50%)
$4,500,000 - $5,999,999	155 basis points (1.55%)

$6,000,000+	160 basis points (1.60%)

Conditions

The Rebate set forth herein is expressly conditioned on the following: (1) monthly billing; (2) payment in full within 26 calendar days of the billing date appearing on your invoice; (3) credit approval; and (4) signing a three-year contract.

WEX will review any act or law as it pertains to payment timing for the NJPA and its members. Upon review of such act or law WEX will agree that extended time to remit payment will NOT adversely affect the volume rebate available to NJPA members unless such act or law permits payment to be made in excess of 50 days from the billing date appearing on the invoice (i.e. 45 days from the date of receipt).

Calculation

We shall commence calculating the Volume Rebate as of the first day of the first billing cycle after an agreement becomes effective. The Rebate will be calculated by determining the Monthly Gallons to establish the applicable Rebate Percentage. The Rebate Percentage is multiplied by the total dollar amount of Monthly Retail Transactions to determine the Volume Rebate.

Payment

Rebates for international transactions shall be paid at a rate of 50% of the applicable Rebate Percentage. Rebates shall be paid to you monthly in arrears.

B. Payment Timing Rebate:

Subject to the express conditions below, we will issue a monthly rebate in accordance with the below Payment Timing Table off all Monthly Retail Transactions charged to NJPA members' accounts (the "Payment Timing Rebate").

Bill Presentment	Payment Timing Options	Basis Points (Rebate Percentage)
Monthly	Payment in full within 10 calendar days of the billing date appearing on your invoice.	6 basis points (0.06%)

Monthly	Payment in full within 5 calendar days of the billing date appearing on your invoice.	8 basis points (0.08%)

*Enrollment in WEX's Direct Debit program required.

Conditions

The Payment Timing Rebate set forth herein is expressly conditioned on the following: (1) electronic reporting (i.e. no paper reports); and (2) our receipt of payment in full in accordance with one of the Payment Timing Options in the Payment Timing Table.

Calculation

We shall commence calculating the Rebate as of the closing of the first billing cycle after an agreement becomes effective. The Rebate will be calculated by determining the Payment Timing and the applicable Rebate Percentage, then by multiplying the Rebate Percentage by the total dollar amount of Monthly Retail Transactions.

Payment

Payment Timing Rebates for international transactions shall be paid at 50% of the applicable Rebate Percentage. Payment Timing Rebates shall be paid to you monthly in arrears.

Cycle Swaps

Our billing and payment system provides for various billing cycle and payment timing options. In the event you desire to change billing cycles you must make a request to Fleet Receivables for a billing cycle change. Upon receipt of the request it will be a minimum of thirty (30) business days to change the billing cycle. In addition, any changes to billing cycles will not take effect until after the current cycle has closed. Cycle changes cannot be made mid-month or mid-week from monthly to weekly billing cycles and cycle changes cannot be made mid-week or mid-month from weekly to monthly billing cycles. Cycle changes can only be made once per calendar year for each billing entity.

Other Discounts

You agree that the only financial incentive to which you will be entitled for the use of accounts will be the Financial Incentives described in this Agreement. Specifically you hereby waive the right to receive the discounts provided within the WEX Electronic Fleet Payment System Authorization Agreement other than what is described herein.

Billing and Payment

Purchases are due and payable in full within 26 days of the date appearing on your invoice. **WEX will**

review any act or law as it pertains to payment timing for the NJPA and its members. Upon review of such act or law WEX will agree that extended time to remit payment will NOT adversely affect the volume rebate available to NJPA members unless such act or law permits payment to be made in excess of 50 days from the billing date appearing on the invoice (i.e. 45 days from the date of receipt).

Invoices include transactions that have posted to our system in your billing cycle and will not include all transactions that have been made in the billing cycle. Your account is delinquent if the balance is not paid within 26 days of the billing date appearing on your invoice.

Upon payment default, finance charges will be assessed at a monthly percentage rate of 2.99%. The periodic rate will be prorated based on the company's billing cycle. Issuer will begin to assess a finance charge on the first day following the date a payment is due and is not posted to the account. The finance charge will be calculated by determining the total balance due on the date the account becomes delinquent. The total balance due includes any additional charges and credits posted to the account since the last billing cycle through the payment due date and then subtracting any payments and/or credits entered during that period for Company reported disputes or otherwise. The total balance due will be multiplied by the periodic rate to determine the account's finance charge. In the event that the calculated finance charge is less than seventy-five dollars ($75.00), a minimum finance charge of seventy-five dollars ($75.00) will be assessed.

If a payment is not received by the payment due date and the balance due is less than ten dollars ($10), a finance charge will not be assessed and the balance will carry forward to the following billing cycle. If additional charges are posted to the account, including other fees, and the new balance exceeds ten dollars ($10), a finance charge will be assessed on the new balance upon payment default.

WEX Universal Fleet Card Fee Schedule

Set-up Fee	WAIVED
Monthly Card Charge	WAIVED
Replacement Card	WAIVED
International Currency Conversion Fee	2% of the total transaction value
Reproduced Reports	$25.00 per request

General Research Fee	$15.00 per hour
Expedited Shipping Fees	Cost varies
Returned Payment Fee	$50.00 per occurrence
Over Credit Limit Fee	$5.00 per transaction or $100 flat fee per month[1]
Reactivation Fee	$50.00 per occurrence (max monthly fee of $50.00)
Truck Stop Fee	$3.00 per card swipe at a diesel pump[2]
Program Maintenance Charge	WAIVED
Paper Delivery Fee	$10.00 per month for paper invoicing and reporting

Pricing for additional products and services is available upon request or reflected on the enrollment forms or in the terms of use that you must agree to in order to receive the additional products and services.

[1]*You may choose to have a flat fee or a per transaction fee applied in the event that you exceed your credit line.*
[2]*Actual charges to be applied to your account will be disclosed on your billing statement.*

All pricing, terms and conditions for ancillary products as described in response to Question 15 also apply to State Government customers.

Not Scored

19.

Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.

N/A.

Not Scored

20.

Identify any total cost of acquisition costs that are NOT included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

We have included our fee schedules in response to Question 15.

Not Scored

21.

If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.

Fleet cards are delivered via standard mail for no charge. The cost for expedited shipping depends on the option selected by the customer and is only charged if the customer does not use its own shipping account number.

Not Scored

22.

Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery .

WEX can ship cards to Alaska, Hawaii, Canada, or any U.S. territories.

Not Scored

23.

Describe any unique distribution and/or delivery methods or options offered in your proposal.

WEX offers standard shipping for new or replacement cards at no cost.

Not Scored

24.

Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.

Internal audits are performed on a three year cycle, based on risk, e.g. the high risk areas are audited each year. Various compliance reviews are performed each year as required by regulations, e.g. generally bank compliance reviews are done annually. Internal audit also performs consulting engagements to assess the control environment of various major business initiatives, i.e. data center move, assessments of acquired companies, etc.

SSAE 16

The SSAE SOC 1 scope includes North America fleet payment processing (Millennium and Classic platforms only). Objectives include:

- A review of controls surrounding contract approval

- Customer set-up
- Tax exemption enrollment
- Card production
- Processing transactions
- Customer billing
- Various general computer controls surrounding change management, computer operations and information security

The SSAE SOC 1 audit is performed each year by an independent auditor. The audit period is the 10 months ending October 31.

Not Scored

25.

Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract; it is not a line item addition to the Member's cost of goods.

The WEX Fleet Card can be used to purchase fuel and fleet related services and products for the retail price at our accepting locations. We will provide the NJPA with revenue share in accordance with the below, depending on the monthly spend by NJPA members. The pricing contained in this document supersedes that of the attached sample Business Charge Account Agreement.

Definitions

"Monthly Gallons" shall mean all gallons of fuel purchased using Cards at retail locations that appear on invoices provided to you during a calendar month. Fuel purchased at Tier 1 Truck Stop locations (currently Flying J, Loves, Petro, and Pilot) are excluded from the Monthly Gallon amount. Due to billing cycle cut off dates and monthly calendar variances invoices received by you in a given month may contain transactions from the previous month and they may not contain all transactions that occurred during the month in which you were invoiced.

"Monthly Retail Transactions" shall mean the total amount of all purchases made using Cards at retail locations that appear on invoices provided to you in a calendar month. Monthly Retail Transactions shall not include: (i) those amounts representing credits, disputed items, fees, late fees or charges posted to your accounts (such as returned check fees, collection costs, administrative fees and reporting fees), (ii) fuel purchased at Tier 1 Truck Stop locations (currently Flying J, Loves, Petro, and Pilot), or (iii) any amounts posted to an account with respect to which a Card has been reported lost or stolen.

A. Volume Revenue Share

Subject to the express conditions below, we will issue a monthly revenue share, paid one month in arrears, in the accordance with the below Rebate Table, based on all NJPA members' Monthly Retail Transactions and the tier established in the table below (the "Rebate").

NJPA Revenue Share – State Members

Monthly Spend	Basis Points (Revenue Share Percentage) to NJPA
$0 - $1,499,999	5 basis points (0.05%)
$1,500,000 - $2,999,999	5 basis points (0.05%)
$3,000,000 - $4,499,999	5 basis points (0.05%)
$4,500,000 - $5,999,999	5 basis points (0.05%)
$6,000,000+	5 basis points (0.05%)

NJPA Revenue Share – Non-State Members

Monthly Spend	Basis Points (Revenue Share Percentage) to NJPA
$0+	35 basis points (0.35%)

Calculation

We shall commence calculating the NJPA members' Volume Rebate as of the first day of the first billing cycle after an agreement becomes effective. The NJPA Revenue Share will be calculated by determining the Monthly Gallons to establish the applicable Rebate Percentage. The Rebate Percentage is multiplied by the total dollar amount of Monthly Retail Transactions to determine the Volume Rebate.

Payment

Rebates for international transactions shall be paid at a rate of 50% of the applicable Rebate Percentage. Revenue share shall be paid to you monthly in arrears.

WEX VIRTUAL REVENUE SHARE

Subject to the express conditions below, NJPA may be entitled to Revenue Share (the "Revenue Share") based on total Annual Net Spend of NJPA members in accordance with the below Rebate Table. The Rebate is based on 30-day billing and 15-day payment.

Revenue Share Table

Annual Net Spend	Basis Points (Revenue Share Percentage) to NJPA
$2,000,000 - $4,999,999	10 basis points (0.10%)
$5,000,000 - $14,999,999	10 basis points (0.10%)
$15,000,000 - $24,999,999	10 basis points (0.10%)
$25,000,000 - $49,999,999	5 basis points (0.05%)
$25,000,000+	5 basis points (0.05%)

Calculation

The Revenue Share is calculated on the last day of the Contract Year utilizing the following steps:

The total Annual Net Spend of NJPA members is multiplied by the applicable Rebate Percentage to arrive at the Rebate. The Revenue Share Percentage is determined by the Revenue Share Table above.

Payment

The Revenue Share will be paid in the form of a check within forty-five (45) days of the end of the Contract Year.

WEX TELEMATICS PRICING

Please see the attached WEX Telematics Pricing.

Not Scored

26.

Describe all payment options—including frequency and methods of payment—and whether you allow electronic payments.

Billing cycles can be weekly or monthly, depending on credit approval.The WEX program offers fleets the flexibility to choose the payment option that meets your unique needs.

Payment Options

Paper Check

You can pay by check using the remit stub attached to the invoice. If you ever need to expedite payment, the overnight payment address is included on the back of the invoice.

Online Payment

You can choose to receive an email notification when your invoice is ready for online viewing and payment. Payments scheduled by 3:00 p.m. ET are credited to your account on the same day and you can pay from up to four different checking accounts.

ACH

WEX supports customer initiated electronic payment through Automated Clearing House (ACH).

Direct Debit/EFT

The Direct Debit system is free. You can elect to receive a Prior Notification fax from us on the morning of the scheduled debit, informing you in advance of the amount to be initiated for debit from your demand deposit bank account.

One-time Authorization for Electronic Payment

If you need to expedite payment on the same day, but have not chosen to make online payments, you can request a one-time debit from your bank account for the outstanding balance on your account. (Processing fee may apply.)

Payment terms subject to credit approval.

Not Scored

27.

Provide information on any value-added tools and solutions that you offer NJPA Members related to fleet management, such as telematics or data analytics.

In addition to the WEX fleet card program described throughout this response, we are offering ClearView data analytics and reporting; Telematics; Virtual Payment; and Private Site Rebilling.

WEX FLEET CLEARVIEW

WEX's recently released WEX Fleet ClearView analytics platform gives managers a dynamic view into their fleet operations. You'll have the ability to combine and analyze large amounts of data, and use the results to take corrective action. Whether it's identifying and understanding short- or long-term trends, reviewing performance benchmarks or isolating outliers and anomalies, you will be able to bring your analysis and decision-making to new levels without the time-consuming, manual calculations.

- Gain a clearer picture of vehicle and driver performance to identify cost savings opportunities
- Streamline operations to help eliminate redundancies
- Quickly identify areas of your organization that need to focus on key performance indicators like card activation rate and price per gallon

Identify outliers and anomalies to reduce fraudulent activity and identify opportunities for driver education

- View volume and price information by merchant brand to divert drivers from high-price stations, and negotiate better rates for heavily-utilized merchants.
- Review purchasing patterns to better understand trends in expenses

TELEMATICS

WEX Telematics is a suite of Telematics solutions carefully assembled to meet the needs of the WEX fleet customer base. Our best in class technologies leverage GPS for tracking and are driven by innovative hardware, software and reporting capabilities. We partner with you to accomplish your specific business goals, such as:

- Maximize the utilization and productivity of your workforce and vehicles
- Reduce overall operating costs and improve revenue
- Reduce fuel costs
- Reduce risk and Improve safety and compliance
- Improve customer experience and relations
- Help you become a greener company

We take a consultative approach to fully understand your specific business case and carefully select the solution that best meets your needs. We help you leverage industry best features and reporting options.

What makes us different?

- More than 30 years of fleet experience
- Consultation and guidance from people you know and trust
- A suite of solutions to meet your specific business case
- Proven implementation process to simplify enablement
- Best in class products backed by US-based world class customer service

- Innovative fuel/GPS integrated products to help curb card abuse

Features

- Dashboards
- Mapping
- Real-Time Alerts (e-mail or text)
  - Speed violations
  - Idling
  - Landmark entry/exit
  - Odd-hours usage
  - Diagnostic trouble codes (optional)
  - Odometer-driven maintenance

Reports

- Begin/end of day
- Stop and drive time
- Engine operating performance data and statistics
- Fuel usage, MPG
- Fuel guard
- Safety violations
- Custom reporting options

PRIVATE SITE REPORTING

Private Site Reporting consolidates tracking of onsite and retail fuel transactions into one comprehensive report, allowing you to monitor private transactions for abuse through purchase controls at the point of sale using your WEX card.

This program provides in-depth reporting of onsite fuel transactions at the vehicle level integrated with retail fuel purchases. The system is designed to exclude onsite fuel transactions from your invoice while providing consolidated comprehensive vehicle level paper and electronic reporting along with your retail transactions.

Once installed, your card readers will be required to retain reportable information so you don't have to. Just like a retail transaction, the driver initiates the data capture by entering their Driver ID and odometer. Your card reader will provide the fuel type, gallons, PPG as programmed in the card reader, and total sale. Upon receipt, WEX integrates this key information into your fleet's usage reporting.

WEX VIRTUAL

Virtual payment systems are revolutionizing purchasing programs like direct deposit changed the landscape of payroll. Instead of using a plastic purchasing card and sending your card number repeatedly to dozens of vendors, a virtual payment system allows you to send a single-use card number for every transaction. WEX Virtual Payments provides accounts payable and purchasing tools that offer:

- Electronic card numbers (no plastic)
- Single-use, secure account numbers
- Real-time processing
- Transaction specific controls
- Enhanced reconciliation and reporting

You don't have a physical card in your hand, but you have purchasing power and control. Plus, because it's electronic your reconciliation is much easier, your account is secure and you can save on administrative costs.

Not Scored

Describe the controls at the transactional level that assist with mitigating fraud, waste, and abuse.

WEX understands that it's critical for fleets to minimize waste and fraud and stay within budget. That's why WEX offers a variety of tools that provide added purchase controls and purchase policy enforcement capabilities.

Please see the attached Levels of Control document.

RISK MITIGATION

In our experience, efforts by WEX's Fraud Department, in tandem with a customer's use of: a fleet management policy; controls; and alerts, along with a careful review of all reports including exception reports, helps substantially reduce exposure to abuse and fraud, and any associated losses.

WEX has instituted business practices designed to help you detect and reduce fraud and/or misuse of the WEX card. WEX's Fraud Department performs three primary functions in an effort to identify and mitigate fraud on our fleet customers' accounts:

Primary Functions

- Review Transaction activity
- Identify potentially abusive or fraudulent behavior
- Notify customers when such behavior occurs

Our Fraud Department makes every effort to detect unusual or excessive purchase activity using constantly evolving techniques and reporting. If such activity is detected, an analyst will contact the fleet manager to bring it to their attention, noting details such as:

Red Flag Activity Indicators

- Date and Time of Purchase
- merchant Location
- Product Purchased
- Driver ID Number used to conduct sale

- Dollar Amount

Our Fraud Department has been instrumental in providing recommendations to prevent fraud from occurring, proactively working to identify fraudulent situations, and working closely with fleets, merchants and appropriate authorities, to minimize losses and prevent such situations from continuing or recurring.

WEX will terminate compromised cards within 48 hours if there are no fraudulent transactions. If WEX discovers a suspicious transaction, the card is terminated immediately and WEX will attempt to contact the fleet for verification. If the transaction proves to be legitimate, WEX can reactivate the card.

There are currently 11 people in WEX's fraud department who are focused on fleet card fraud. WEX works with state and local law enforcement in an effort to prosecute those who commit fraud with the WEX card. WEX attempts to pro-actively close down at-risk cards before fraud happens.

ACI/ReD PRISM

WEX utilizes ACI/ReD's enterprise fraud prevention service, PRISM, as a supporting tool to its in-house fraud initiatives ACI/ReD PRISM uses predictive analytics and neural modeling technologies to score the likelihood of a transaction being fraudulent. The combination of custom scoring and dynamic rules assists client companies in identifying likely fraudulent transactions before they occur, thereby reducing overall fraud losses.

Security and control

We enable our customers to monitor and control their fleets' expenditures. Through WEX*Online*®, fleet managers can set pre-determined limits on the amount of money their drivers can charge, the frequency with which their drivers can purchase fuel, the type of products and services that their drivers can purchase and the time of day or days when their drivers can make purchases. In addition, through WEX*Online*®, fleet managers can perform real-time modifications to any pre-determined limits or add or remove driver identification numbers in response to changes or to prevent theft.

They also can elect to be notified by email when limits are exceeded in eight purchase categories, including limits on transactions within a time range, gallons per day and allowable fuel types. Our purchase controls allow fleet drivers to purchase essential items and services when needed, but deter them from making excessive or unauthorized purchases.

Exception Reports

Managing by exception is an excellent way to save time while ensuring your policies are being followed in the field. These types of reports couple well with your card controls to effectively manage your program by identifying potential fraud or abuse.

Driver ID

The WEX card cannot be electronically activated without entering a valid Driver Identification Number (DID), rendering the card useless to someone who has found or stolen it. The authorization process acts as a security measure, and provides a layer of protection against fraudulent activity. A valid DID is required by all users at the point of sale, providing security to the fleet customer.

Not Scored

29.

NJPA Members must operate in such a way as to, for example, maintain tax exempt-status, generate proper reporting, and eliminate fraud and abuse. Provide the percentage of Level 3 Data for fuel and maintenance transactions that you are able to meet with no site exclusions.

WEX requires all of its accepting merchants to be capable of transmitting Level III data, thereby providing you with greater assurance that you will receive the detailed data you need. Level III data is included in 99.8%* of all transactions made with a WEX card. That data is included in standard and custom reporting. Some of our competitors claim 100% Level III data capture. However, this percentage is achieved through site lockout on their non-Level III locations, therefore decreasing the number of locations available to your drivers. This process forces your drivers to know which locations haven't been locked out due to insufficient data supply. Just 74% of MasterCard fueling locations are currently Level III capable.

Not Scored

30.

To ensure that Members receive the best data, describe your online management tools and reporting capabilities. Describe your ability to provide data validations on key data elements such as odometer readings, which help ensure the accuracy of data for vehicle analysis.

Please see the attached documentation describing WEXOnline and WEX's reporting capabilities.

WEX uses a patented process that analyzes the transaction history on each vehicle to evaluate Odometer Reasonableness and adds an Adjusted Odometer value to Bad Odometer entries. These adjusted odometer values are calculated from the vehicle's Projected Fuel Economy and gallons purchased. The adjusted odometer field is passed to our customers through WEXLink files and through our online applications. This is available to the customer after data has been accumulated to make the calculation statistically valid, or at least 12 valid data points for each vehicle where the calculation is being requested. A report on this data can be made available to the customer daily.

Not Scored

31.

Describe your ability to provide files to interface with our Members' fleet-management systems.

WEX frequently interfaces with fleet management systems such as Assetworks, Faster, and Chevin. Many fleet management programs already have a file interface written specifically for WEX. We also interface with enterprise systems such as SAP. There are many customers currently utilizing the NJPA WEX contract taking advantage of these seamless file interfaces. There is a state on the NJPA WEX card

program that utilizes automatic daily file feeds for their fleet management program. There is another State on the program that utizlizes a custom builling file to interface with their enterprise management system. WEX typically uses the WEXLink file interface program to accomplish these needs.
WEX*Link* is an electronic file that provides customers with transaction data on a daily, weekly, or monthly basis via the internet (i.e. FTP). The data is provided in a flat file and includes extensive detail for both fueling and service transactions, enabling fleets to analyze vehicle, driver and purchase information, and to reconcile monthly invoices. WEX*Link* files are designed specifically for fleet customers who want to perform detailed analysis and reporting on their fleet account. This file can be merged with your existing information management system, making it easy to track costs.
Not Scored
32.
NJPA Members may require vendors to interface with privately owned fueling facilities. Describe your ability to seamlessly interface data for private-site fuel locations.
There are customers currently utilizing the NJPA WEX card program taking advantage of the WEX private site solutions described below.

Private Site and Bulk Fuel Solutions

For fleets with private site and bulk fueling needs, WEX offers secure, live authorizations and integrated reporting for onsite bulk fueling transactions. You can select one of two options.

Private Site Program

WEX's private site program allows you to use the WEX Fleet Card to activate pumps at your onsite bulk fuel tanks, allowing for increased security and asset-level fuel usage reporting on your bulk fuel. WEX captures Driver ID and odometer information, authorizes the card swipe, and provides integrated reporting of the private site transactions with your retail transactions while excluding onsite fuel transactions from your invoice.

Private Site Rebilling Program

The private site rebilling program combines the same features and functionality of the private site program with the ability to allow other WEX Universal fleets to fuel at your onsite bulk tank.* You will receive a private site report that details all of your transactions -- both non-financial and rebilled. WEX will handle the reconciliation and settlement on your behalf and will bill the visiting fleet. Funds from the visiting fleet transactions will be automatically deposited in your bank account via ACH 30 days after the transaction posts in the WEX system.

How It Works

- Fleet must have or install certified card readers (see certified equipment vendor list)
- Drivers who fuel at the site are prompted for Driver ID and Odometer reading
- Card reader provides fuel type, gallons, PPG, and total sale
- WEX integrates the information into your fleet's reports
- Depending on your set-up, certain fees may apply

The Benefits

- Consolidates tracking of onsite and retail fuel transactions into a comprehensive report.
- Minimizes time, effort, and cost of administering fuel usage.
- Purchase controls available through your WEX card monitor private site transactions for card abuse and misuse.

Easy Processing

- Driver swipes WEX fuel card at the onsite card reader.
- Card reader prompts driver for Driver ID and odometer reading on vehicle.
- Card reader dials out via network to WEX for authorization.
- WEX authorizes sale and pump activates.
- Driver fuels vehicle.
- Card reader sends final sale to WEX via network.
- WEX processes this information and posts the information in your fleet reporting.

Rebilling functionality is only available for certain types of programs. Please contact your WEX Sales Representative for more information.

Not Scored

33.

Describe the unique advantages of any virtual payment tool (if offered) in comparison to other fleet-settlement services.

Virtual payment systems are revolutionizing purchasing programs like direct deposit changed the landscape of payroll. Instead of using a plastic purchasing card and sending your card number repeatedly to dozens of vendors, a virtual payment system allows you to send a single-use card number for every transaction. WEX Virtual Payments provides accounts payable and purchasing tools that offer:

- Electronic card numbers (no plastic)
- Single-use, secure account numbers
- Real-time processing
- Transaction specific controls

- Enhanced reconciliation and reporting

You don't have a physical card in your hand, but you have purchasing power(and control. Plus, because it's electronic your reconciliation is much easier, your account is secure and you save on administrative costs.

Not Scored

Approve Purchase Order with WEX Bank for Fleet Fuel Cards Program

City Council

December 3, 2019

CITY OF OXNARD CALIFORNIA

Recommendation

That the City Council award and authorize the Mayor to establish a Purchase Order with WEX Bank in the not to exceed amount of $7,200,000 for a three year term for Fuel Cards.

(The Public Works and Transportation Committee approved 3-0; expenditures for FY19 have been updated since committee approval.)

2

Background

- Fleet Services provides maintenance and repair of the City's 953 vehicles and equipment fleet, valued at over $44 million.
- Fleet is responsible for maintenance of vehicles as well as oversight for fuel and fuel card program. Currently, the City purchases unleaded, diesel and Compressed Natural Gas (CNG).
- Unleaded and Diesel are purchased from Shell Corporation and CNG is purchased from Voyager at the SoCalGas-Oxnard Base location.
- All departments and divisions are currently using either Shell and/or Voyager fuel cards.

3

Background

The table below outlines diesel and unleaded fuel usage by Division.

Division	Fuel Purchased in FY 19	Percent
ER	$1,093,240.19	51.52%
Police	$ 571,458.25	26.93%
Parks	$ 132,586.53	6.25%
Water	$ 88,751.47	4.18%
Streets	$ 55,006.03	2.59%
City Corps	$ 48,716.68	2.30%
Other	$ 132,224.38	6.23%
Total	**$ 2,121,983.53**	**100%**

4

Discussion

- The Public Works Department and the Purchasing Division have been working toward implementing a new fuel card system to better serve the City Departments.
- The Wex Government Fleet Card Program allows for the purchase of Unleaded, Diesel and Compressed Natural Gas (CNG). Prior, the City was operating with two different vendors (Shell and Voyager) to meet its fuel needs.
- Converting to WEX fuel cards will increase operational efficiency and administrative burdens, and will allow for greater oversight of the program as a whole.

5

Discussion

- Wex Fleet Card is accepted at 95% of fueling stations nationwide. The following are some of the accepting fuel sites: Chevron, Circle K, Mobil, 76, Arco, Valero, Exxon, Seven Eleven, Shell, Sinclair and Texaco.
- The Wex Fleet Card will also be used to purchase CNG from SoCalGas-Oxnard Base.
- The City intends to piggyback on the Wex Government Fleet Card Program which has been competitively bid through Sourcewell, formerly NJPA

6

Discussion

- Participation is free, with no enrollment, set up or card fees.
- A major improvement that the Wex Fleet Card provides is the number of locations available to fuel, allowing staff to conveniently fuel vehicles and reducing unnecessary time and miles traveled.
- Supplemental to rebates and cost savings, the program offers better security and better accounting, something that staff believes to be an indirect cost of service (savings).
- The next slide outlines some high level aspects of the service agreement.

7

Discussion

- Cost Savings
  - Estimated rebates of approximately 1.3% annually based on volume, prompt payment and annual spend
  - Use electronic billing to reduce administrative costs
  - Reduce staff time spent on unnecessary fuel trips
- Better Security
  - Manage spending with purchase limits the City controls
  - Driver IDs are used at the pump to help prevent fraud and misuse
- Better Accounting
  - Track spending online and see fuel grade, cost per gallon, and sales tax for every purchase
  - Download monthly reports including exception reporting

8

Discussion

- Oversight of fuel transactions will be enhanced due to the web based client portal.
- The WEX Fleet Card offers a suite of control and alert tools that allows staff to know where, when, what, and how much is being spent.
- Features include a pump shut off feature, type and amount control limits, real time alerts, and a number of standard and custom reports.

9

Financial Impact

Funds are available in the Fleet Services Operational Fund (741-7501) and future year funding for fuel will be considered as part of the annual budget process. The following table shows the anticipated cumulative fiscal year breakdown for each funding source.

Account Number	FY 19/20	FY 20/21	FY 21/22	Total
741-7501-853.82-36 (Unleaded)	$960,000 (Budgeted)	$960,000 (Estimate)	$960,000 (Estimate)	$2,880,000
741-7501-853.82-37 (CNG)	$240,000 (Budgeted)	$240,000 (Estimate)	$240,000 (Estimate)	$720,000
741-7501-853.82-38 (Diesel)	$1,000,000 (Budgeted)	$1,300,000 (Estimate)	$1,300,000 (Estimate)	$3,600,000
TOTALS	$2,200,000	$2,500,000	$2,500,000	$7,200,000

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Questions?

CITY OF OXNARD CALIFORNIA