

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. Any materials to be presented at this meeting will be made available electronically 24 hours prior to the meeting, at the end of this agenda. The agenda reports are on the City of Oxnard web site at www.oxnard.org.



AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY
Council Chambers, 305 West Third Street
October 2, 2018
Regular Meeting - 6:00 PM
Closed Session - 5:00 PM
Appointment Item - 5:30 PM

A. ROLL CALL/POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council.

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 – 5:00 PM

1. Conference with Legal Counsel – Existing Litigation

CC (Government Code section 54956.9 (d)(1))
Name of case: Pedro Marquez v. City of Oxnard
Workers' Compensation Case No. ADJ7649619

The City Attorney requested that this item be discussed in closed session under the Brown Act authorization for the City Council to confer with its legal counsel regarding pending litigation.

2. Conference with Legal Counsel – Existing Litigation

CC (Government Code section 54956.9 (d)(1))
Name of case: Martha Ramirez v. City of Oxnard
Workers' Compensation Case Nos. ADJ10131515, ADJ10000153, ADJ10901119

The City Attorney requested that this item be discussed in closed session under the Brown Act authorization for the City Council to confer with its legal counsel regarding pending litigation.

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.

City of Oxnard internet address: www.oxnard.org.

D. OPENING CEREMONIES

Pledge of allegiance to the flag of the United States.

E. APPOINTMENT ITEMS – 5:30 PM**City Manager Department**

1. **SUBJECT:** Oxnard Downtown Management District (ODMD) Annual Update (10/10/10)
RECOMMENDATION: That City Council receive a verbal report by Executive Director Abel Ramírez Magaña on the activities performed by the Oxnard Downtown Management District.

Legislative Body: CC

Contact: Ashley Golden

Phone: (805) 385-7882

F. CEREMONIAL CALENDAR

1. **SUBJECT:** Donation by the Cheng Family to the City of Oxnard in the Amount of \$30,000 to be Used for Technology Upgrades for Meeting Rooms and Homework Centers at the Oxnard Public Library.
2. **SUBJECT:** Presentation of a Proclamation Designating the Month of October, 2018 as "Multicultural Month" in the City of Oxnard.
3. **SUBJECT:** Presentation of a Resolution to Arturo Casillas for Thirty Years of Outstanding Service to the City of Oxnard.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. INFORMATION CONSENT AGENDA

City Clerk Department

1. SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the September 18, 2018 Regular Meeting as presented.

Legislative Body: CC

Contact: Michelle Ascencion

Phone: (805) 385-7805

City Manager Department

2. SUBJECT: Oxnard City Council Position on November 2018 Ballot Initiatives.

RECOMMENDATION: That the City Council 1) Receive the report; 2) Adopt Resolution Supporting State Propositions 2 and 3 and Opposing Proposition 6; and 3) take such additional, related action as may be desired.

Legislative Body: CC

Contact: Jesus Nava

Phone: (805) 385-7479

Fire Department

3. SUBJECT: Authorization to Submit a Grant Application to the Office of Emergency Services for the 2018 Emergency Management Performance Grant (EMPG).

RECOMMENDATION: That City Council adopt a resolution authorizing:

1. The City Manager to submit a grant application in the amount of \$46,829 to the Ventura County Office of Emergency Services for the 2018 Emergency Management Performance Grant for the purpose of planning and conducting an emergency management and response exercise and for offsetting the salary of emergency services personnel;

2. The City Manager or designee to execute the grant agreement if grant funds are awarded to the City;

3. The Chief Financial Officer or designee 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

4. The Fire Chief or designee to submit non-financial reports.

Legislative Body: CC

Contact: Darwin Base

Phone: (805) 385-7700

4. SUBJECT: Funding of One Vehicle from CUPA Capital Equipment Fund.

RECOMMENDATION: That City Council appropriate \$37,539 from the CUPA Capital Equipment Fund 373 fund balance for the purchase and outfitting of one vehicle for the Certified Unified Program Agency (CUPA) inspectors

Legislative Body: CC

Contact: Darwin Base

Phone: (805) 385-7700

Information Technology Department

5. SUBJECT: Extension of Compuwave Blanket Purchase Order for Computer Upgrades.

RECOMMENDATION: That City Council approve and authorize the Mayor to execute revised Compuwave Purchase Order #6668, to increase the not-to-exceed amount from \$350,000 to \$450,000. This purchase order was approved on February 6, 2018 and revised on June 19, 2018 for the purpose of purchasing computers, network hardware, and software.

Legislative Body: CC

Contact: Keith Brooks

Phone: 385-7597

Police Department

6. SUBJECT: Appropriation of Funds for Payment to Adamson Police Products.

RECOMMENDATION: That City Council approves a budget appropriation recognizing \$50,250 of "pass-through" misc. revenue for payment of firearm purchases with Adamson Police Products.

Legislative Body: CC

Contact: Scott Whitney

Phone: (805) 385-7624

Public Works Department

7. SUBJECT: Second Amendment to Tree Trimming Services Agreement.

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a Second Amendment to Agreement No. 7517-16-CM with West Coast Arborists, Inc. in the amount of \$720,000 to increase the amount to a total of \$1,666,225 for tree trimming services.

Legislative Body: CC

Contact: Rosemarie Gaglione

Phone: (805) 385-8055

8. SUBJECT: Five Agreements for On-Call Soils and Material Testing and Inspection Services.

RECOMMENDATION: That City Council award and authorize the Mayor to execute Agreement Numbers A-8078 with Fugro USA Land, Inc., A-8079 with Leighton Consulting, Inc., A-8080 with NV5 West, Inc., A-8081 with Earth Systems Pacific and 8256-18-PW with

Twining, Inc., each in the amount of \$250,000 and for three-year terms, for on-call soils and materials testing and inspection services.

Legislative Body: CC

Contact: Rosemarie Gaglione

Phone: (805) 385-8055

9. SUBJECT: Authorize Annual Purchase Order with Aqua Metric Sales Company for Water Meters and Related Parts.

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a purchase order with Aqua Metric Sales Company for the annual (FY 18-19) amount of \$240,000 to purchase water meters and parts.

Legislative Body: CC

Contact: Rosemarie Gaglione

Phone: (805) 385-8055

M. PUBLIC HEARINGS

Police Department

1. SUBJECT: JAG FY 18 Grant (5/5/5)

RECOMMENDATION: That City Council adopt a resolution:

1. Authorizing the City Manager to execute and submit an application for U.S. Department of Justice (DOJ) grant funds in the amount of \$106,112 from the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program's FY 2018 Local Solicitation;

2. Authorizing the City Manager to execute a Memorandum of Understanding with the Cities of San Buenaventura and Simi Valley designating the City of Oxnard as the lead agency and fiscal agent for the JAG;

3. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon notification of grant award;

4. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve administrative budget appropriation for the use of JAG funds upon award; and

5. Authorizing the Chief of Police or designee to submit all program related progress or status reports.

Legislative Body: CC

Contact: Scott Whitney

Phone: (805) 385-7624

N. REPORTS

Public Works Department

1. SUBJECT: Approval of the Release of Seabridge CFD Escrow Funds. (5/10/5)

RECOMMENDATION: That the City Council

1. Approve the release of the \$250,000 deposit paid by the Developer of the Seabridge Community Facilities District (CFD), and accumulated interest, to the City of Oxnard based upon the findings of the City's water quality expert that the thresholds of water quality have fallen below the Generally Accepted State Standards per the Seabridge Development

Agreement;

2. Authorize a reimbursement from Seabridge Development Deposit Z43801 to Seabridge CFD#4 (Fund 173) for expenditures related to water quality issue in amount of \$68,930; and
3. Authorize a budget appropriation for Seabridge CFD#4 (Fund 173) in the amount of \$68,930 for expenditures related to water quality issue.

Legislative Body: CC

Contact: Rosemarie Gaglione

Phone: (805) 385-8055

Development Services Department

2. SUBJECT: Cannabis Land Use Options (15/20/30)

RECOMMENDATION: That City Council:

1. Receive a presentation regarding land use and siting (location) options associated with cannabis land uses in zoning designations throughout the City of Oxnard;
2. Direct staff to prepare draft land use and permit regulations that would allow cannabis distribution, manufacturing, and testing/laboratory operations in the City of Oxnard;
3. Review potential indoor and outdoor cannabis cultivation and provide input on land use locations, if any; and
4. Review potential medical and non-medical cannabis dispensary (i.e., retail dispensaries) locations and direct staff to conduct community outreach to solicit input pertaining to proposed dispensary locations in the City of Oxnard.

Legislative Body: CC

Contact: Ashley Golden

Phone: (805) 385-7882

O. ADJOURNMENT



**CITY COUNCIL
AGENDA REPORT**

**TYPE OF ITEM: Appointment
Item**

AGENDA ITEM NO.: 1

DATE: October 2, 2018

TO: City Council

FROM: Ashley Golden
Development Services Director

SUBJECT: Oxnard Downtown Management District (ODMD) Annual Update (10/10/10)

CONTACT: Ashley Golden, Development Services Director
Ashley.Golden@oxnard.org, (805) 385-7882

RECOMMENDATION:

That City Council receive a verbal report by Executive Director Abel Ramírez Magaña on the activities performed by the Oxnard Downtown Management District.

BACKGROUND

The Oxnard Downtown Management District (ODMD) was initially formed in 2001, under the Property and Business Improvement District Law of 1994, which authorizes cities to establish property and business improvement districts (the "PBIDs") within business districts to promote enhanced economic revitalization and physical maintenance of such business districts.

The improvements and activities of the ODMD include providing street, sidewalks, alley and parking lot cleaning and other services supplemental to those normally provided by the City; a public safety program; promotions and marketing; expansion of thematic physical amenities throughout Downtown; and other improvements and activities which benefit businesses and real property located within the District.

STRATEGIC PRIORITIES

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:

ODMD Annual Update (10/10/10)

October 2, 2018

Page 2

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 2b. Improve relationships and communication between the City and the business community.

Objective 2c. Capitalize on historic, cultural and natural resources.

Objective 2d. Public safety will collaborate with the business community to promote and environment that supports economic development.

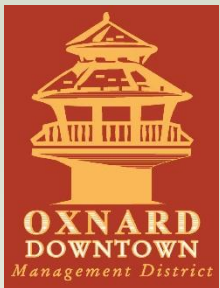
Goal 5. Revitalize Oxnard's downtown and pursue economic development opportunities.

FINANCIAL IMPACT

There is no financial impact in receiving this report.

Prepared by Claudia Pedrosa, Downtown Revitalization Manager

BETTER TOGETHER



City Council Meeting

Annual Report

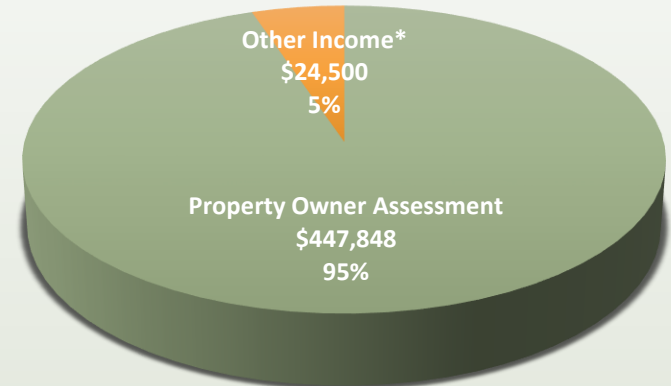
October 2, 2018

Overview

- Non-Profit Mutual Benefit Organization
- Public – Private Partnership
- Est. 2001; Renewed 3x
- *Supplemental* services to City Baseline
 - Similar to Mall Management /HOA
 - Property owners assessed*
 - Total assessment \$454,096
 - 70% private; 30% public

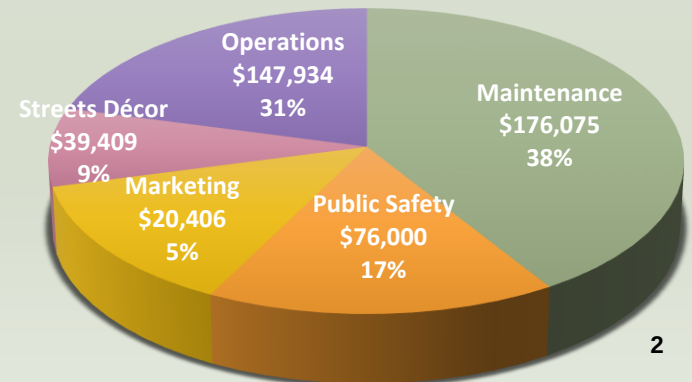
*Non-profit religious exempt

2017-18 Revenues \$472,348



*other income – rent, events sponsorship

2017-18 Expenditures \$459,356



Service Area

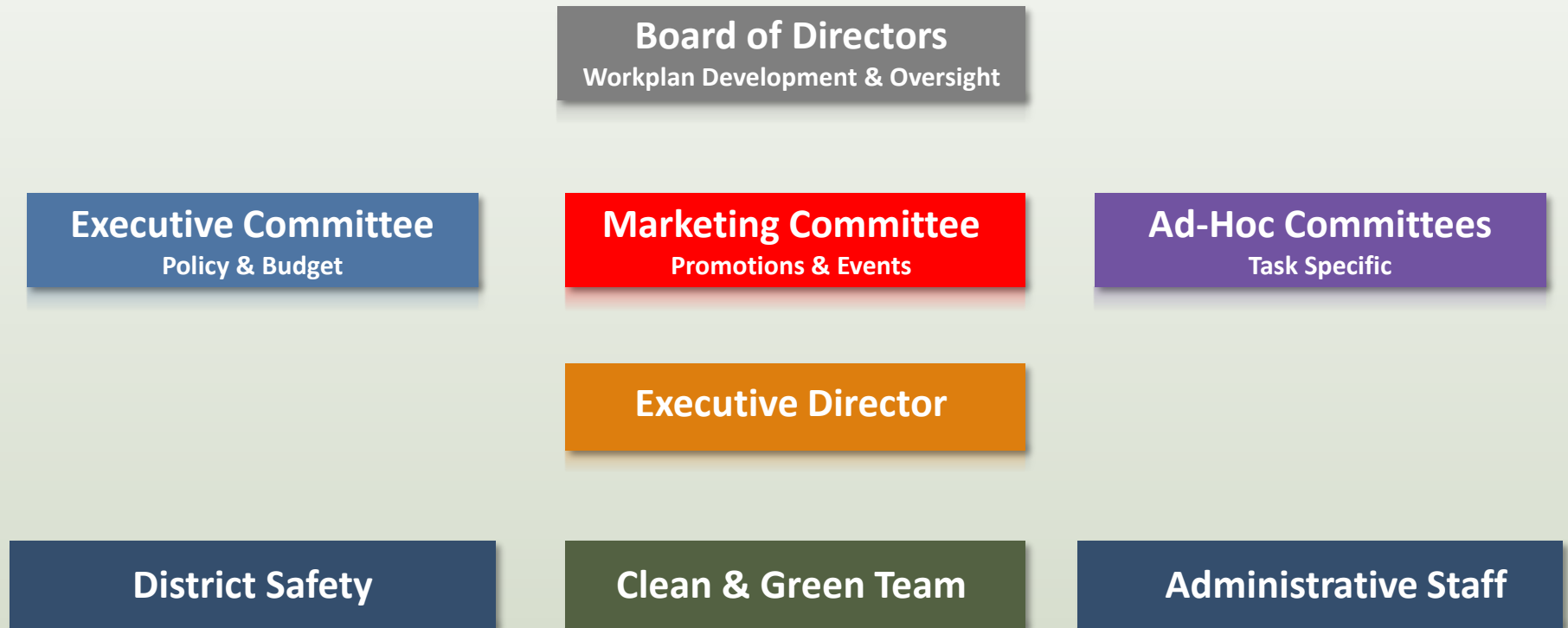
- 23 City blocks
- 400 Parcels
- 982,582 sf commercial space
- 200 Property Owners
- 320+ Merchants
 - The “Walkable Downtown”
 - North to 2nd St.
 - South to Wooley Rd.
 - East to Meta St.
 - West to C St.
- 256 Residential Units



Board Governance

- Officers
 - Chairman **Vincent Behrens**, American Drive-in Cleaners
 - Vice Chair **Armando Lopez**, Centennial Plaza
 - Treasurer **Osbaldo Lopez**, Casa Lopez
 - Secretary **Mark Spellman**, Lazer Broadcasting
 - At-Large **Councilman Oscar Madrigal**, City of Oxnard
- Directors
 - **Cathi Comras**, Meta District
 - **Angelique Estrada**, C Street
 - **Fernando Garcia**, El Miramar
 - **Janie Lai**, Janie Lai & Associates Architects
 - **Tiffany Lopez**, Lopez Family Trust
- Elected to oversee Management District Plan

Organization



Clean Team

- 3.5-person ground crew
- Mon – Sat, 5:30 a.m. to 2 p.m.
 - Litter pickup
 - Graffiti removal
 - Sidewalk pressure washing
 - Weed abatement
 - Trash key replacement
 - Illegal dumping
 - Homeless camp abatement
 - Special Projects



Maintenance Stats



Litter

2,126 (45-gal. bags) Over 96M total

Illegal Dumping

714 incidents, 6.13 ton

Bio Waste

1,165 incidents of human waste

Sidewalk Sweeping

29,319 block faces

Weed Abatement

195 block faces weeded

Graffiti

stickers/posters

Pressure Washing

650 “hot spots” pressure washed

Medical / Drug Waste

663 found hypodermic needles

Street Furniture Cleaned

2,812 benches, utility boxes, & news racks

Shopping Cart Removal

477 Shopping Carts



District Safety

- 4 District Safety Officers
 - Bike, Foot & Truck patrols
 - Sun – Thurs 7 am to 11 pm
 - Fri – Sat 7 a.m. to 2 a.m.
- Assist Police:
 - Vagrancy
 - Graffiti
 - Suspicious activity
 - Light Outage Reports
 - Bar / Nightclubs exit control
 - Traffic management



Average Monthly Incidents

- 131 Loitering
- 101 Alcohol Offenses
- 93 Public Disturbances



Public Space Enhancement

- 162 Sidewalk planters
- Plaza Park Hanging Flower Baskets
- 178 street lamps decorated for Holidays
- Banners
- Special Projects
 - Wayfinding Sign Refurbishment
 - Parkways & Tree Wells Improvement
 - Paseo Maintenance
 - Remove Blighted Newsracks



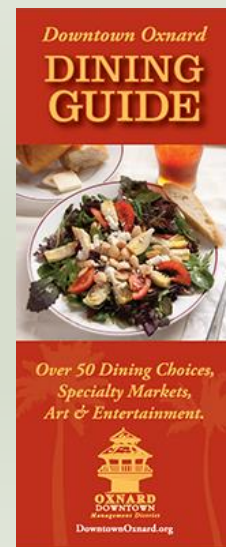
Supporting the Arts

- Utility Box Murals
- 3rd Street Bridge Temporary Art
- Arts Hub participation
- District Gallery & Visitor Center



Marketing

- Print Collateral
- Co-op Ads
- Video
- OCVB Marketing Committee
- Small Business Saturday
- DowntownOxnard.org
- Social Media



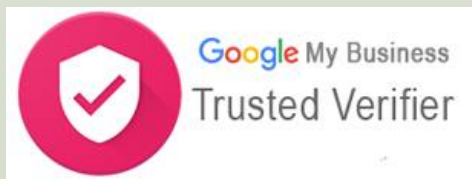
Events

- Halloween Haunt in the Park
- Oxnard Cruise Night
- CP Live Summer Arts Series
- Lucha Libre
- First Thursdays
- Holly Trolley
- Pagoda Winter Fantasy Show



Stakeholder Communications

- Member Services Information
- Email Bulletin
- Merchant Mixers
- Workshops
- Leasable Space Database



Downtown Hotlines
Oxnard Downtown Management District (ODMD)




CLEAN & GREEN **DISTRICT SAFETY**
805.890.3984 **805.422.2020**
 Mon - Fri 5 am - 1:30 pm Sun - Thurs 7 am - 11 pm
 Sat 6 am - 12 pm Fri - Sat - 7 am - 2 am

Litter Removal
Sidewalk Cleaning
Graffiti Removal
Illegal Dumping
Weed Abatement
Flyer/Sticker Removal
Planter Maintenance
Visitor Assistance

Bike & Truck Patrol
Vandalism Notification
Loitering/Trespassing
Suspicious Activity
Traffic Control
Street Light Outages
Safety Escort
Visitor Assistance

Services are benefits of the Property & Business Improvement District (PBID) directed by ODMD, a non-profit agency. For more information, call 805.385.2705.



Welcome to Downtown Oxnard



Leading Brands & Local Favorites

Downtown's merchant mix features market-leading national brands, emerging independent shops, and local institutions that have earned a place in the heart of the community through generations of service. Consider the opportunities and find your place in the heart of Oxnard.

National Brands: - Starbucks - Cold Stone Creamery - Metro PCS - Subway - Peet's - Jackson Hewitt	Newest Independent Merchants: - California Slice Pizza - Ni Awing Bibo - Paga's Treasures - Downtown Deli - Sugar Beets Restaurant & Bar - The Kitchen	Local Institutions: - American Cleaners - BO's Cafe - Golden Chicken Inn - La Central Bakery - Asahi Chinese Market - Oster's Fish Market
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A High-Level View of Downtown Oxnard

District Snapshot

Area: 0.332 square miles; 40 blocks, Situated 3 miles East of U.S. Highway 101
Boundary: North to 2nd St.; South to Wesley Rd.; West to C St.; East to Oxnard St. & Mesa
Businesses: Over 300 merchants
Parking: Over 2,800 free public parking stalls

Demographics
Population:
Density:
Daytime Pop.
Median Age:
Avg. HH Inc:
Median HH S:

Contact us at [phone number]
 current email
 All Mailings
 Public Forum
 www.oxnard.org

OXNARD DOWNTOWN Improvement District BULLETIN




News & Events

- ODID staff promoted district business development opportunities at a booth at the SCORE Business Expo held May 2, attended by over 500 startup and existing businesses.
- Staff participated in the Oxnard Chamber Business Advocacy Committee and suggested code changes to locate homeless shelter services in industrial zones to offset over-saturation in the Central Business District. ODID also advocated for streamlining of the entertainment permitting process.
- ODID attended the Downtown Design Review Committee's (DDRC) first meeting with new members architects Roy Prince and Miguel Fernandez, joining Gary Blum and Michael Faulconer. DDRC is required on any changes to building exteriors. The panel serves in a consultative role with final design decisions determined by City Planning staff. The group is currently planning to improve the process and quality.

Advocacy

- Stakeholder Issues:
 - Vagrancy
 - Permit Assistance
 - Parking
 - Baseline Services
- Representation
 - DT Improvement Task Force
 - DT Design Review Committee
 - Homeless Commission
 - Special Issue Forums
 - Chamber Advocacy Committee
 - Cultural Arts Commission
 - City Council Public Comments
 - Trade Shows



New Business

- Rabobank
- County Schools Credit Union
- Fortress Automechanics
- The Hair Parlor
- Taco Loco
- Dr. Henry Perez, DDS
- La Hermandad
- Cricket Wireless
- Pirma
- Free Press Marketing
- Heritage Coffee & Gifts



Merchant Milestones

- Coastal Architects – 10 years “Small Business of Year”
- Central Nails – 5 years
- La Casa de Ceremica – bought building
- Digital Signs – 10 years
- Del’s Pizza – 10 years
- Sheer Extacy Salon – 10 years
- Sunshine Eye Services – 40 years
- El Puente Auto Care – 20 years
- Law Offices of Dale Givner – 40 years
- Xielo Artisan Desserts – DT Business of Year
- Murillo Jewelers – 15 years
- Amadeus Limousine Shuttle – 20 years
- Carnitas El Rey – opened second location



Commercial Occupancy

Avg. rents at \$1 but market rising



5.4%

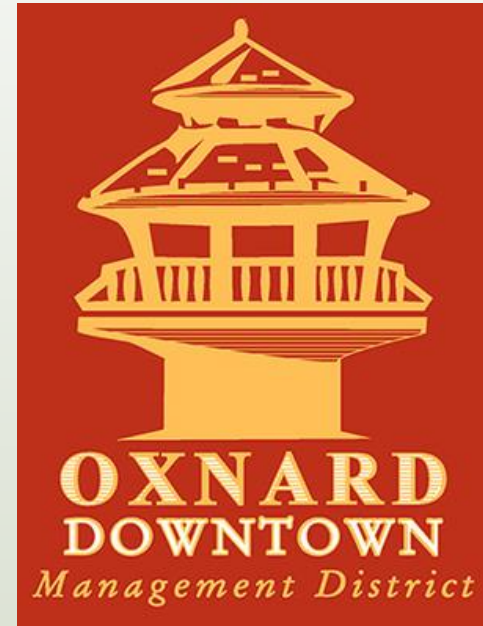
**vacancy rate
vs. 7.2% for County***

53,458 sf

**leasable space
out of total 982,528 sf**

Thank You

- City Officials
- Public Safety
- Community Partners
- Residents
- Board, Committees & Members!
- **QUESTIONS?**



CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
 COMMENDING ARTURO CASILLAS FOR THIRTY YEARS
 OF EXEMPLARY SERVICE TO THE CITY OF OXNARD

WHEREAS, Arturo Casillas has given thirty years of exemplary service as an employee of the City of Oxnard; and

WHEREAS, Arturo Casillas began his career with the City of Oxnard Housing Department as a Housing Eligibility Specialist on April 7, 1980; and then served as a Housing Specialist II, a Senior Housing Specialist, Management Analyst, then as Housing Programs Manager and on August 3, 2015 was appointed as Housing Director. Mr. Casillas remained as the Housing Director until his retirement on September 28, 2018; and

WHEREAS, throughout his career, Arturo Casillas was an advocate for low-income families who were in need of housing; and

WHEREAS, Arturo Casillas helped obtain millions of dollars in competitive grant funds to help improve the lives of Public Housing residents in the City of Oxnard; and

WHEREAS, under his leadership the Housing Authority has achieved and maintained a High Performer rating from the U.S. Department of Housing and Urban Development, which last year described the Oxnard Housing Authority as, *“one of the best managed public housing agencies in the nation”*; and

WHEREAS, Arturo Casillas has significantly improved the administration of the City’s Community Development Block Grant program, the Home Investment Partnerships Program, and the Emergency Solutions Grant; and

WHEREAS, Mr. Casillas played a major role in providing winter shelter for the homeless during the last three years, and in obtaining resources and providing plans for a year-round homeless shelter; and

WHEREAS, under his leadership the Housing Department has added 190 units of new affordable housing through the Las Cortes Project, Habitat for Humanity, and Many Mansion’s veterans housing project in south Oxnard; and

WHEREAS, Arturo Casillas will be sorely missed in the Housing Department, as he has always placed an emphasis on excellent customer service and continuously advocated for the employees that worked with him. He will continue to live in Oxnard with his wife Mary.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby resolve to commend, recognize and extend its gratitude to Arturo Casillas for thirty years of outstanding service to the City and extend best wishes for a fun and fulfilling retirement with family and friends.

PASSED AND ADOPTED this 2nd day of October 2018 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

 Tim Flynn, Mayor

ATTEST:

APPROVED AS TO FORM:

 Michelle Ascencion, City Clerk

 Stephen M. Fischer, City Attorney



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent

AGENDA ITEM NO.: 1

DATE: October 2, 2018

TO: City Council

FROM: Michelle Ascencion
City Clerk

SUBJECT: Approval of Minutes.

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

RECOMMENDATION:

That the City Council approve the minutes of the September 18, 2018 Regular Meeting as presented.

STRATEGIC PRIORITIES:

This agenda item is a routine operational item that does not directly 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.

Prepared by Michelle Ascencion, City Clerk

ATTACHMENTS:

Attachment A: Minutes 09.18.2018 CC,HA regular meeting

MINUTES
 OXNARD CITY COUNCIL
 Regular Meeting
 September 18, 2018

A. ROLL CALL/POSTING OF AGENDA

At 4:36 p.m., Mayor Flynn called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority) in the City Hall Council Chambers, 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Bryan A. MacDonald, Oscar Madrigal, Bert Perello, Mayor Pro Tem Carmen Ramirez, and Mayor Tim Flynn were present. Housing Commissioners Jose Andrade (arrived at 6:00 p.m.) and Francisco Vega (arrived at 6:25 p.m.) were present for open session.

Staff members present were Alexander Nguyen, City Manager; Stephen Fischer, City Attorney; Jesús Nava, Assistant City Manager; Ashley Golden, Interim Assistant City Manager; and Michelle Ascencion, City Clerk.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Public comments were received from Alicia Percell and Edward Castillo.

C. CLOSED SESSION

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 City of Oxnard; et al. v. Aaron Starr; Aaron Starr and Nancy Pedersen v. City of Oxnard; Aaron Starr v. City of Oxnard; and Moving Oxnard Forward v. Jim Throop; et al.

At 4:43 p.m., the City Council recessed to a closed session. At 6:07 p.m. the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. OPENING CEREMONIES

The flag salute was followed by a moment of silence.

Additional staff members present at this time were Arturo Casillas, Housing Director; Rosemarie Gaglione, Public Works Director; Suzanne Bellah, Cultural Arts Supervisor; Mark Alvarado, Homelessness Coordinator; Karl Lawson, Housing Compliance Services Manager; Erik Garwick, Parks Manager; and Karen Moore, Assistant City Clerk.

E. CEREMONIAL CALENDAR

1. SUBJECT: Presentation of a Commendation to the El Rio Fastpitch 8U Gold Allstar Team for Winning the California State Games Junior Olympic Tournament.

Mayor Flynn named the team's accomplishments throughout the season and team manager Carlo Godoy made remarks. The Councilmembers presented the players and coaches with certificates.

2. SUBJECT: Presentation of Proclamation Designating the Week of September 17-23, 2018 as "Constitution Week."

Mayor Flynn read the proclamation and presented it to Jackie Gardena, Dean and Professor of Law at the Ventura College of Law. Public comments were received from Lance Ralston, Michael Hernandez, George Miller, and Edward Castillo.

3. SUBJECT: Presentation of Proclamation Designating the Month of September 15 through October 15, 2018 as "Hispanic Heritage Month."

Mayor Flynn read the proclamation and presented it to the Cultural Arts Supervisor, who made some remarks, and Carnegie Art Museum board member Cesar Perez.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Mayor Flynn announced that item H-1 has been pulled from the agenda.

Public comments were received from Woodrow Thomas Sr. (status of his claim against the city), Calvin Matsui (supporting candidate Lance Ralston), Miguel Espinosa (constitutional rights for Latino citizens), Leo Martinez (supporting candidate Lance Ralston), Bonnie Carter (on behalf of Alexis Browning: condition of Meridian Avenue greenbelt), Harold Ceja (parking issues in his neighborhood), George Miller (in support of Proposition 6), Edward Castillo (landscape maintenance districts), Angela Whitecomb (Parks and Recreation Commission recent activities), Pat Brown (city budget limitations), Gary Blum (annual Oxnard Historic Homes tour), and Martin Jones (the city's credit rating).

G. REPORT OF CITY MANAGER

The Interim Assistant City Manager reported that due to partnership with the school districts, funding for youth sports has been reinstated to pre-budget cut levels. The Assistant City Manager reported on the passage of SB862 which granted \$9.5 million for emergency repairs at the wastewater treatment plant.

H. CITY COUNCIL REPORTS

City Manager Department

1. SUBJECT: Oxnard City Council Position on November 2018 Ballot Initiatives.

(This item was removed from the agenda.)

Councilmember Madrigal commented on the recent passing of Dr. Tom McCambridge, upcoming Downtown Improvement Task Force and Carnegie Board meetings, the Boys & Girls Club celebration, El Grito/Fiestas Patrias celebration and parade, and a recent Future Leaders of America meeting.

Mayor Pro Tem Ramirez commented on youth sports, Fiestas Patrias parade, requested a study session on vaping stores, upcoming disaster preparedness fair, and the Global Action Climate Summit's recent recognition of the City's efforts to restore its coastline.

Councilman MacDonald commended public safety for its response to a recent structure fire, commented on upcoming Fiscal Policy Task Force and Downtown Improvement Task Force meetings, and the recent League of California Cities annual conference in Long Beach.

Councilmember Perello commented on a recent Los Angeles Regional Water Quality Control Board meeting, water conditions in the Channel Islands Harbor, parking at Villa Victoria, El Grito celebration, placing a project labor agreement on the ballot, recent Kennedy dinner, and Jack Villa's appointment to the Ventura County Grand Jury.

Mayor Flynn commented on security at Sycamore Senior Apartments, El Grito/Fiestas Patrias celebration and parade, the Los Angeles Regional Water Quality Control Board meeting, and upcoming Channel Islands Harbor Task Force meeting

- I. REVIEW OF INFORMATION/CONSENT AGENDA (None.)
- J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA (None)
- K. INFORMATION/CONSENT AGENDA

City Clerk Department

- 1. SUBJECT: Approval of Minutes.
RECOMMENDATION: That the City Council approve the minutes of the September 11, 2018 Regular Meeting as presented.

Development Services Department

- 2. SUBJECT: Notice of Pending Approval – Parcel Map No. 17-300-01.
RECOMMENDATION: Receive and file only.

Housing Department

- 3. SUBJECT: General Depository Agreement.
RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard approve and authorize the Chairman to execute a general depository agreement (form HUD-51999) with Bank of America.

It was moved by Councilman MacDonald, seconded by Mayor Pro Tem Ramirez, to approve the Information/Consent items as presented. VOTE: Andrade, Flynn, MacDonald, Madrigal, Perello, Ramirez, and Vega voted in favor, the motion carried 7-0 on item K-3 (Housing Authority item), and 5-0 on the remaining items (City Council items).

L. PUBLIC HEARINGSHousing Department

1. SUBJECT: The City of Oxnard's Consolidated Annual Performance and Evaluation Report (CAPER) for Fiscal Year 2017-18.
RECOMMENDATION: That the City Council accept the City of Oxnard's CAPER for FY2017-2018.

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

It was moved by Mayor Pro Tem Ramirez, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Flynn, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 5-0.

M. REPORTSHousing Department

1. SUBJECT: Homeless Five-Year Plan.
RECOMMENDATION: That the City Council:
 1. Receive a presentation outlining the Oxnard Homeless Five-Year Plan and Strategy, and
 2. Approve the Oxnard Homeless Five-Year Plan and Strategy for implementation.

The Homelessness Coordinator gave a report. Public comments were received from Rosalinda Torres, Yukio Okano, Lucy Cartagena, Peggy Rivera, Barbara Macri-Ortiz, Francine Castanon, Abel Magana, Woodrow Thomas Sr., Gabriela Basua, Steve Nash, and Darlene Miller. 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: Flynn, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 5-0.

2. SUBJECT: Declaration of Shelter Crisis; MOUs for Foul Weather Shelter and Countywide Homelessness.
RECOMMENDATION: That the City Council:
 1. Approve a Memorandum of Understanding with the County of Ventura and the City of Ventura for the Governance and Oversight of the Foul Weather Shelter System;
 2. Approve a Memorandum of Understanding on "Ventura Countywide Homelessness" with the County of Ventura, the City of Camarillo, the City of Fillmore, the City of Moorpark, the City of Port Hueneme, the City of Santa Paula, the City of Simi Valley, the City of Thousand Oaks, and the City of Ventura; and
 3. Adopt a Declaration of a Shelter Crisis **Resolution No. 15,167.**

Public comments were received from Yukio Okano and Abel Magana.

It was moved by Councilman MacDonald, seconded by Mayor Pro Tem Ramirez, to approve the recommended action as presented. VOTE: Flynn, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 5-0.

Public Works Department

3. SUBJECT: Report on Street Tree Trimming Services.
RECOMMENDATION: That the City Council:
 1. Receive a report on the status of street tree trimming services; and
 2. Approve a budget appropriation in the amount of \$250,000 from the Measure O Special Sales Tax Fund Balance to augment contractual Citywide Tree Trimming Services Program (MO5710).

The Parks Manager gave a report. Public comments were received from Jackie Tedeschi, Gabriel Teran, Pat Brown, and Steve Nash. 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: Flynn, MacDonald, Madrigal, Perello, and Ramirez voted in favor; the motion carried 5-0.

N. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Flynn adjourned the meeting at 10:02 p.m.

MICHELLE ASCENCION, CMC
City Clerk

TIM FLYNN
Mayor



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent
AGENDA ITEM NO.: 2

DATE: October 2, 2018

TO: City Council

FROM: Jesus Nava
Assistant City Mgr

SUBJECT: Oxnard City Council Position on November 2018 Ballot Initiatives.

CONTACT: Jesus Nava, Assistant City Mgr
Jesus.Nava@oxnard.org, (805) 385-7479

RECOMMENDATION:

That the City Council 1) Receive the report; 2) Adopt Resolution Supporting State Propositions 2 and 3 and Opposing Proposition 6; and 3) take such additional, related action as may be desired.

BACKGROUND

On June 5, 2018, California voters approved Proposition 68, the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018. This important statewide measure created new potential funding sources for communities like the City of Oxnard for planning, development and rehabilitation of parks, water resources and natural coastal resources. Because the issuance of state bonds is still needed to fund Proposition 68, state agencies will likely not begin the development of the guidelines for the state funded programs under Proposition 68 until 2019. As a result it is expected that notices of funding opportunities will not be made available by state agencies until late 2019 or early 2020.

Proposition 68 includes some of the following funding opportunities:

- \$725 million in competitive grants for creation and expansion of safe neighborhood parks in park-poor neighborhoods with the greatest need across the state.
- \$200 million in per capita base allocation to cities and counties for local park rehabilitation to be distributed to cities.
- \$175 million in competitive grants for coastal and ocean resource protection of beaches, bays, wetlands, lagoons and coastal watersheds and wildlife areas, including acquisition of coastal land.

Oxnard City Council Position on November 2018 Ballot Initiatives

October 2, 2018

Page 2

- \$40 million in competitive grants for plans, development and implementation of climate adaptation, habitat restoration and resiliency projects.
- \$80 million in competitive grants for treatment and remediation to prevent or reduce contamination of groundwater to enhance local water supply.
- \$290 million in competitive grants and loans for groundwater sustainability, including planning, design, and implementation of projects focused on groundwater recharge, recycled water, and clean-up of contaminated groundwater that serves as local drinking water.
- \$40 million in competitive grants to acquire decommissioned coastal power plants in order to restore sites back to open space areas.

To better prepare for future funding opportunities made available under Proposition 68, the City will continue to identify specific projects that meet possible funding criteria. In an effort to be proactive, we have already focused our attention on eight specific code sections included in the approved proposition text and are working closely with our Sacramento lobbyist to begin inquiries with the appropriate State agencies for potential funding avenues for City of Oxnard projects.

In addition, it is recommended that citywide efforts in preparation of Proposition 68 funding should include:

- Verification of city qualifying as disadvantaged community according to Proposition 68 defined standards.
- Completion of a local Parks Master Plan with identification of projects and documentation of park deficiencies and needs.
- Inclusion of city water needs in the adopted Regional Water Management Plan.
- Discussion of city's interest to acquire the decommissioned Mandalay and Ormond Beach Power Plants and plans for such sites.

California 2018 November Statewide Ballots

The State of California has a total of 12 statewide initiatives for the November 2018 election ballot, four of which directly affect local government. The League of California Cities has endorsed Proposition 2 and 3 and officially opposed Proposition 6 and has encouraged local governments to do the same. The details for these statewide ballot initiatives include:

- Proposition 2 - No Place Like Home Act of 2018. **Recommended Position: Support.**
 - Authorizes state to use revenue from the 2004 voter-approved Mental Health Services Act for \$2 billion in revenue bonds for homelessness prevention housing for persons in need of mental health services.
 - The previous legislation did not go into effect because of pending litigation over whether revenue from the Mental Health Services Act could be spent on homelessness prevention housing
- Proposition 3 - Authorizes Bonds to Fund Projects for Water Supply and Quality,

Oxnard City Council Position on November 2018 Ballot Initiatives

October 2, 2018

Page 3

Watershed, Fish, Wildlife, Water Conveyance, and Groundwater Sustainability and Storage. Initiative Statute. **Recommended Position: Support.**

- Authorizes state to issue \$8.877 billion in bonds for water-related infrastructure, groundwater supplies and storage, surface water storage and habitat protection and restoration.
- Proposition 6 - Eliminates Recently Enacted Road Repair and Transportation Funding by Repealing Revenues Dedicated for Those Purposes. Requires Any Measure to Enact Certain Vehicle Fuel Taxes and Vehicle Fees Be Submitted to and Approved by the Electorate. Initiative Constitutional Amendment. **Recommended Position: Oppose.**
 - Repeals fuel tax increases and vehicle fees that were enacted in 2017, including the Road Repair and Accountability Act of 2017, and requires a majority public vote on future increases.
 - Eliminates more than \$5 billion annually in existing transportation funds and stops funding for more than 5,000 state and local road bridge and road safety, transportation improvement projects currently underway throughout California.

Staff requests the City Council's consideration to approve Resolution No.____, approving the City of Oxnard's support of Proposition 2 and 3 and opposition of Proposition 6.

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 2. Address homelessness through the development and implementation of a multi-tiered strategy.

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

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 2. Enhance business development throughout the City.

Objective 2c. Capitalize on historic, cultural and natural resources.

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:

Oxnard City Council Position on November 2018 Ballot Initiatives

October 2, 2018

Page 4

Goal 1. Ensure Master plans for all City infrastructure are current, synchronized and consistent with the General Plan.

Objective 1b. Develop master plans for other City facilities and vehicles.

Goal 2. Develop an asset management program that includes fleet, facilities, parks, streets, alleys, water, waste-water and storm water.

Objective 2a. Develop a City-wide asset management program.

Objective 2b. Develop an asset management funding plan.

Goal 3. Ensure Funding is adequate to meet the goals of the master plans.

Objective 3a. Maximize funding sources.

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.

Objective 4b. Catch up on deferred maintenance for City facilities.

Goal 5. Ensure orderly development and long-range conservation and management of our natural resources and coastal assets.

Objective 5a. Develop and implement a sustainability program.

Objective 5b. Protect ocean and waterways.

FINANCIAL IMPACT

There is no immediate financial impact associated with the City Council actions on this item. Voter approval of bond funds for housing, water supply and groundwater sustainability projects may provide additional state funding for City of Oxnard projects. Voter action on Proposition 6 will determine future funding for transportation projects.

Prepared by Elisabeth Paniagua, Legislative Consultant

ATTACHMENTS:

Attachment A: Reso. 2018 State Propositions 2, 3, and 6

RESOLUTION NO. ----

A RESOLUTION APPROVING THE CITY OF OXNARD'S SUPPORT FOR
PROPOSITION 2 AND 3, AND OPPOSITION OF PROPOSITION 6

BE IT RESOLVED by the Council of the City of Oxnard as follows:

SECTION 1: The City Council finds as follows:

- A. In 2004, voters approved a ballot initiative, titled Proposition 63 to enact an additional 1 percent tax on incomes of \$1.0 million or greater, requiring that such tax revenue, referred to as the millionaire's tax, be spent on mental health services and homeless prevention housing programs in California; and
- B. Proposition 2, the Use of 2004 Mental Health Services Act Revenue for Homelessness Prevention Housing Bonds Measure, an authorization of the state to use \$2 billion in revenue bonds from the 2004 Proposition 63 (Mental Health Services Act) will be placed on the November 2018 statewide ballot; and
- C. Proposition 2 will authorize bonds for homelessness prevention housing for persons in need of mental health services across the State of California; and
- D. Proposition 3, the California Water Infrastructure and Watershed Conservation Bond Initiative, a \$8.877 billion general obligation bond will be placed on the November 2018 statewide ballot; and
- E. Proposition 3 will authorize bonds to provide for water-related infrastructure and environmental projects across the State of California; and
- F. Proposition 6, the Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative, an initiated constitutional amendment will be placed on the November 2018 statewide ballot; and
- G. Proposition 6, represents the repeal of the gas and diesel tax increases and vehicle fees enacted in 2017 and require voter approval for fuel tax and vehicle fee increases in the future; and
- H. Proposition 6 will directly reduce existing and future gas tax related funds to City of Oxnard and other regional Ventura County transportation projects.

SECTION 2: The City does hereby supports Proposition 2, 3 and opposes Proposition 6, and any subsequent iteration titled otherwise by the Secretary of State that is scheduled to appear on the November 2018 statewide ballots.

SECTION 3: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

SECTION 4: The City Clerk will certify to the passage and adoption of this Resolution; will enter the same in the book of original Resolutions of said City; and will make a minute of the passage and adoption thereof in the record of proceedings of the City Council of said City, in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED, and ADOPTED, this 18th day of September, 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Tim Flynn, Mayor

ATTEST:

APPROVED AS TO FORM:

Michelle Ascencion, City Clerk

Stephen M. Fischer, City Attorney



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent

AGENDA ITEM NO.: 3

DATE: October 2, 2018

TO: City Council

FROM: Darwin Base
Fire Chief

SUBJECT: Authorization to Submit a Grant Application to the Office of Emergency Services for the 2018 Emergency Management Performance Grant (EMPG).

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

RECOMMENDATION:

That City Council adopt a resolution authorizing:

1. The City Manager to submit a grant application in the amount of \$46,829 to the Ventura County Office of Emergency Services for the 2018 Emergency Management Performance Grant for the purpose of planning and conducting an emergency management and response exercise and for offsetting the salary of emergency services personnel;
2. The City Manager or designee to execute the grant agreement if grant funds are awarded to the City;
3. The Chief Financial Officer or designee 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
4. The Fire Chief or designee to submit non-financial reports.

BACKGROUND

The 2018 Emergency Management Program Grant (EMPG) is funded by the U.S. Department of Homeland Security and administered through the California Office of Emergency Services. The funds are distributed to the City on a reimbursement basis through the Ventura County Sheriff's

2018 Emergency Management Performance Grant Application

October 2, 2018

Page 2

Office of Emergency Services. Grant funds must be used to prevent, prepare for, mitigate against, or recover from natural or manmade emergencies and disasters.

The City will utilize the grant funds to plan and conduct an emergency management and response exercise and to provide funding for a temporary staff position of Emergency Services Coordinator within the fire department. The specific activities of the Emergency Services Coordinator meets the requirements of the grant include ensuring National Incident Management System (NIMS) compliance, training of Emergency Operations Center (EOC)/City staff and promotion of community readiness through programs such as Community Emergency Response Team (CERT).

Under the Emergency Management Grant Program 2018 EMPG the City must provide a 100% match. The City may use the general fund budget for salary of the Emergency Services Manager as the matching funds for this grant. When awarded, Homeland Security will provide \$46,829.27 in funding with Oxnard matching \$46,829.27 in Fire personnel salary.

Due to the limited notification for application the grant application was submitted on August 1, 2018. Notifications of award are anticipated in November 2018.

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 grant funding will allow hiring of a temporary position in capacity of an Emergency Services Coordinator to assist with outreach of the program while the required match of \$46,829.97 will be met with 30% in-kind of FY18/19 budgeted salary the Emergency Services Manager.

Prepared by Scott Brewer, Emergency Services Manager

ATTACHMENTS:

Attachment A: Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING
SUBMITTAL OF A FEDERAL EMERGENCY MANAGEMENT PERFORMANCE
GRANT APPLICATION TO THE COUNTY OF VENTURA

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 County of Ventura Office of Emergency Services for a Federal Emergency Management Performance Grant (EMPG) in the amount of \$42,829.27. Grant funds to be used to prevent, prepare for, mitigate against, and recover from natural or manmade emergencies and disasters.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to approve the submittal of a grant application by the City Manager under the FEMA Emergency Management Performance Grant Program for the funding of a city emergency management and response exercise and to offset the salary and benefits of City Emergency Services Personnel. 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 2nd day of October, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Timothy Flynn, Mayor

ATTEST:

APPROVED AS TO FORM:

Michelle Ascencion, City Clerk

Stephen M. Fischer, City Attorney



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent
AGENDA ITEM NO.: 4

DATE: October 2, 2018

TO: City Council

FROM: Darwin Base
Fire Chief

SUBJECT: Funding of One Vehicle from CUPA Capital Equipment Fund.

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

RECOMMENDATION:

That City Council appropriate \$37,539 from the CUPA Capital Equipment Fund 373 fund balance for the purchase and outfitting of one vehicle for the Certified Unified Program Agency (CUPA) inspectors

BACKGROUND

Californians are protected from hazardous waste and materials by a Unified Program that ensures consistency throughout the state in regard to administrative requirements, permits, inspections, and enforcement. CalEPA oversees the program as a whole, and certifies 83 local government agencies known as Certified Unified Program Agencies (CUPA) to implement the hazardous waste and materials standards set by five different state agencies. The Oxnard Fire Department is the local administrator for the CUPA program that conducts inspections and provides oversight for businesses that store hazardous materials and generates hazardous waste.

Through the administration of requirements, permits, inspections and enforcement processes, revenue is generated from penalties, fines or from legal action. These funds are regulated by the State of California and can be spent on equipment and training for program activities.

The CUPA division is in the process of hiring a new inspector, expected to begin work in October 2018. Vehicles are used by the inspectors to conduct inspections, investigate complaints, and assist permit holders at their place of business. As no vehicle is currently available for the new inspector to use, purchase of a vehicle is necessary. The use of the CUPA

Funding of One Vehicle from CUPA Capital Equipment Fund

October 2, 2018

Page 2

funds for the purchase of the vehicle is an allowable expense per California Health and Safety Code 25404.1.1(i):

All administrative penalties collected from actions brought by a UPA pursuant to this section shall be paid to the UPA that imposed the penalty, and shall be deposited into a special account that shall be expended to fund the activities of the UPA in enforcing this chapter.

CUPA has worked with Fleet Services and Purchasing to select a Nissan Leaf, an all-electric vehicle, to be purchased as the replacement vehicle. The cost for one Nissan Leaf electric vehicle is \$35,359. The vehicle that will be purchased is a stock vehicle and will require some additional outfitting of fire radios and miscellaneous equipment. It is anticipated that this additional outfitting will not exceed \$2,000, bringing the total requested appropriation to \$37,539.

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

Upon approval and purchase of the vehicle and equipment in the amount of \$37,539, the remaining FY18-19 fund balance in the CUPA Capital Equipment Fund 373 will be approximately \$291,511.

Prepared by Nathan West, CUPA Manager

ATTACHMENTS:

Attachment A: Budget Appropriation

Attachment B: Oxnard Fire Department CUPA Enforcement Trust Fund Account Policy Guidelines

REQUEST FOR BUDGET APPROPRIATION

Department: Fire
Project/Program
Manager: Nathan West

Date: October 2, 2018
Phone: 385-8364

Reason for Appropriation:

For the purchase of one (1) vehicle to be used by an inspector for the CUPA program.

Accounts and Descriptions

AMOUNT

Fund: CUPA Capital Program (373)

Expenditures/Transfers Out

CUPA INSPECTOR VEHICLE (Project 192201)

373-2205-821.86-06	CAPITAL OUTLAY / MACHINERY AND EQUIP NEW	37,539
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Sub-total Expenditures	37,539
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Net Change to Fund Balance	(37,539)
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Net Appropriation Change	37,539
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Approvals

Department Director _____

Chief Financial Officer _____

City Manager _____

Oxnard Fire Department Certified Unified Program Agency

Enforcement Trust Fund Account Policy and Guidelines

March 2010

“The Fund serves to foster and assist the City of Oxnard Fire Department Certified Unified Program Agency (CUPA) in program development, training, and other program functions”.

1. PURPOSE OF GUIDELINES

- 1.1. Creation of Trust Account.** The Oxnard Fire Certified Unified Program Agency (CUPA) (OFD) hereby establishes the Enforcement Trust Account to be administered by the OFD.
- 1.2. Purpose of Guidelines.** These Fund Guidelines govern management of the Enforcement Trust Account Fund for expenditures outlines below.
- 1.3. Authority.** Administrative Enforcement Order (AEO) Authority and issuance of administrative penalties and establishment of a special account. California Health & Safety code, Section 25404.1.1 (i) and 25187 (a) and (k).

2. OBJECTIVES AND PURPOSES

- 2.1 General and Specific Purposes.** This Trust Account has been organized solely and exclusively for the purpose of CUPA program development and specific program functions.

3. **TRUST FUND**

3.1 Definition. The Fund is established to disburse and manage monies obtained from AEO case settlements and other state-wide enforcement cases.

3.2 Fund. The Fund shall be held exclusively by an account established by the OFD CUPA and managed by the CUPA Coordinator. The Fund shall also include all interest derived from monies in the Fund.

- 4. EXPENDITURES FROM THE TRUST FUND** Proposed expenditures shall be authorized and approved by the CUPA Coordinator. The following is a list of examples of qualified expenditures:

Qualified Expenditure	Examples
Enhancement in data management hardware, contract services, and/or enforcement capabilities	Laptop, field tablets, scanners, software, and contract services to convert from paper to electronic (scanning and data entry), purchase of applicable software for electronic data management.
Specific database applications	Statewide training database
Field instrument for hazardous materials applications, hazardous materials applications, investigations, and enforcement	IR's, CGI's, PID's, gas meters, TLV's or other equipment that will assist inspectors/emergency responders in evaluating field situations.
Training	Travel and other related expenses for staff training.
Enforcement investigations/case development	Case specific such as sample collection, and laboratory analysis
Other equipment to support the CUPA program	Vehicles, PPE, and others
Training assistance, projects or efforts with other Division/departments to enhance interagency cooperation	Travel and other related expenses for Fire Prevention and other departments such as wastewater and environmental services (assist in obtaining scholarships).
Consultants	Develop program related projects

5. MISCELLANEOUS

5.1 Expenses of Administration All expenses incurred in the administration of the Fund shall be paid from the Fund.

6. RECORDS AND FILES The CUPA Coordinator shall maintain a copy of all expenditure records, receipts, correspondence, and any other records and files related to the Fund. All records shall be maintained indefinitely.



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent
AGENDA ITEM NO.: 5

DATE: October 2, 2018

TO: City Council

FROM: Keith Brooks
IT Director

SUBJECT: Extension of Compuwave Blanket Purchase Order for Computer Upgrades.

CONTACT: Keith Brooks, IT Director
Keith.Brooks@Oxnard.org, 385-7597

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute revised Compuwave Purchase Order #6668, to increase the not-to-exceed amount from \$350,000 to \$450,000. This purchase order was approved on February 6, 2018 and revised on June 19, 2018 for the purpose of purchasing computers, network hardware, and software.

BACKGROUND

The IT Department continues to replace outdated computer hardware throughout City facilities. This end-of-life equipment creates security issues and causes decreased staff productivity. Using the joint purchase agreement between Compuwave and the County of Ventura Master Agreement Number COMPUWAVE000FYT17MA01, Contract number 6500, Amendment #3 which expires January 1, 2019, Purchase Order 6668 was approved by Council on February 6, 2018 in the amount of \$225,000. This amount was raised to \$350,000 on June 19, 2018. Due to Compuwave's ability to consistently offer lower prices, the Department would like to continue using this vendor for additional purchases and is requesting the amount of the blanket purchase order be lifted to \$450,000.

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

Compuwave Blanket Purchase Order Extension

October 2, 2018

Page 2

improve workforce quality while increasing transparency to the public. The vendor has consistently shown its ability and desire to provide extremely competitive pricing and unmatched service which have helped the IT staff to effectively manage the City's computer and network infrastructure. 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.

Objective 1a. Ensure the 128 recommendations outlined in the organizational assessment are implemented through the 3 phased implementation action plans adopted by Council in July, 2015 and provide periodic reports to Council on the status of the implementation plans.

FINANCIAL IMPACT

Extension of this blanket purchase order will not require additional expenditures above those approved in the adopted budget. Items purchased will be charged to authorized appropriations in the Information Technology and operating department budgets.

Prepared by Gary Krumian, Programmer Analyst/Senior Business Analyst

ATTACHMENTS:

A: Compuwave 6668 reduced



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

**PURCHASE
ORDER NO.
006668**

DATE: 9/24/2018

VENDOR PHONE: (805)650-8808

VENDOR FAX: (805)650-9644

VENDOR #: 1214

VENDOR ADDRESS: COMPUWAVE
1839 KNOLL DRIVE
VENTURA, CA 93003

SHIP TO: INFORMATION SYSTEMS
300 W. THIRD ST,
SUITE 200
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
01/08/2018		0000003690	01/08/2018	BOB LANDMAN, GENERAL MANA	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
				MARISELA HART	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

CHANGE ORDER
 COMPUWAVE BLANKET PO
 Effective date: 01/08/2018
 Expiration date:
 01/01/2019 Not to exceed:
 450,000.00

NOT TO EXCEED:\$225,000
 EXPIRES: 1/1/2019
 COMPUTER, NETWORK HARDWARE & SOFTWARE PURCHASES
 COUNCIL DATE OF 2/6 OR 2/13, APPRIVING NOW TO
 PRINT PO
 CITY COUNCIL APPROVED 2/6/18, ITEM K1(C)
 ON 6/19/18 CITY COUNCIL APPROVED INCREASING PO
 6668 TO \$350,000, EXP DATE REMAINS THE SAME AT
 1/1/19. ITEM J7

TOTAL PURCHASE AMOUNT

\$0.00

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

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

See to the attached terms and conditions of the City of Oxnard

Page 1 of 4

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

**PURCHASE
ORDER NO.
006668**

DATE: 9/24/2018

VENDOR PHONE: (805)650-8808

VENDOR FAX: (805)650-9644

VENDOR #: 1214

VENDOR ADDRESS: COMPUWAVE
1839 KNOLL DRIVE
VENTURA, CA 93003

SHIP TO: INFORMATION SYSTEMS
300 W. THIRD ST,
SUITE 200
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
01/08/2018		0000003690	01/08/2018	BOB LANDMAN, GENERAL MANA	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
				MARISELA HART	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

AUTHORIZED SIGNATURE. _____

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

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

**PURCHASE
ORDER NO.
006668**

DATE: 9/24/2018

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FOB		ACCOUNT NUMBER		AUTHORIZED BY	
				MARISELA HART	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

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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, supplies 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, equipment 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 under 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, consultants 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 requirement 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 equivalent 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 under 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 due 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 Housing 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 Purchase 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.



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

**PURCHASE
ORDER NO.
006668**

CCRC
5/17/18
REVIEWED

DATE: 5/17/2018

VENDOR PHONE: (805)650-8808
VENDOR FAX: (805)650-9644
VENDOR #: 1214
VENDOR ADDRESS: COMPUWAVE
1839 KNOLL DRIVE
VENTURA, CA 93003

SHIP TO: INFORMATION SYSTEMS
300 W. THIRD ST,
SUITE 200
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
01/08/2018		0000003690	01/08/2018	BOB LANDMAN, GENERAL MANA	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
				MARISELA HART	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

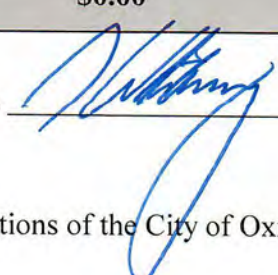
CHANGE ORDER
COMPUWAVE BLANKET PO
Effective date: 01/08/2018
Expiration date: 01/01/2019
Not to exceed: 350,000.00

TOTAL PURCHASE AMOUNT

\$0.00

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

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

AUTHORIZED SIGNATURE. 

See to the attached terms and conditions of the City of Oxnard

Page 1 of 3

COUNCIL APPROVED

6/19/2018

Packet Pg. 38

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

**PURCHASE
ORDER NO.
006668**

DATE: 5/17/2018

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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 under 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, consultants 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 requirement 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 equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);
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7. Vendor, in the performance of any services or the furnishing of any labor under 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.
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 - 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.



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

**PURCHASE
 ORDER NO.
 006668**

DATE: 6/11/2018

VENDOR PHONE: (805)650-8808

VENDOR FAX: (805)650-9644

VENDOR #: 1214

VENDOR ADDRESS: COMPUWAVE
 1839 KNOLL DRIVE
 VENTURA, CA 93003

SHIP TO: INFORMATION SYSTEMS
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01/08/2018		0000003690	01/08/2018	BOB LANDMAN, GENERAL MANA	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
				MARISELA HART	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

CHANGE ORDER
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 Effective date: 01/08/2018
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 Not to exceed: 350,000.00

NOT TO EXCEED:\$225,000, CITY COUNCIL APPROVED
 2/6/18, ITEM K1 (C)
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TOTAL PURCHASE AMOUNT

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

AUTHORIZED SIGNATURE. _____

See to the attached terms and conditions of the City of Oxnard

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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.
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 - 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.

AMENDMENT #3 TO VENTURA COUNTY

CONTRACT #6500

for

Desktop Computers

The County of Ventura (County) and SMAK dba Compuwave hereby agree that the agreement identified as Ventura County Contract No. 6500, previously entered into by the parties is amended as follows:

1. The term of the contract has been extended from January 2, 2018 through January 1, 2019.

All other terms and conditions remain the same.

COUNTY OF VENTURA

Maria Moreno
Signature

Maria Moreno
Printed name

Buyer
Title

January 2, 2018
Date

SMAK INC. DBA COMPUWAVE

[Signature]
Authorized signature

David Herzog
Printed name

Vice President
Title

January 11, 2018
Date

SMAK INC. DBA COMPUWAVE

Mohan Aswani
Authorized Signature

Mohan Aswani
Printed Name

CEO
Title

1/11/18
Date

* If a corporation, this Contract must be signed by two specific corporate officers.

The first signature must be either the (1) Chief Executive Officer, (2) Chairman of the Board, (3) President, or any (4) Vice President.

The second signature must be the (a) Secretary, or (b) Assistant Secretary, the (c) Chief Financial Officer, or any (d) Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

AMENDMENT #2 TO VENTURA COUNTY**CONTRACT #6500****for****Desktop Computers**

The County of Ventura (County) and BMAK dba Compuwave hereby agree that the agreement identified as Ventura County Contract No. 6500, previously entered into by the parties is amended as follows:

1. The term of the contract has been extended from January 2, 2017 through January 1, 2018.

All other terms and conditions remain the same.

COUNTY OF VENTURA

Maria Moreno
Signature

Maria Moreno
Printed Name

Buyer
Title

January 10, 2017
Date

c: 6500

BMAK dba Compuwave

David Herzog
Authorized Signature

David Herzog
Printed Name

Vice President
Title

1/11/17
Date

PROCUREMENT SERVICES

800 SOUTH VICTORIA AVENUE
VENTURA, CA 93009-1080
(805) 654-3750 FAX (805) 654-3754

<http://gsa.countyofventura.org/procurement>

COUNTY OF VENTURA

GENERAL SERVICES AGENCY

MASTER AGREEMENT

MASTER AGREEMENT NUMBER COMPUWAVE000FY17MA01		PRINT DATE 12/30/16	FUNCTION/TYPE Modification	NOT TO EXCEED \$8,200,000.00	PAGE 1 of 3
VENDOR NAME AND ADDRESS BMAK INC 1839 KNOLL DR VENTURA CA 93003		VENDOR PHONE NUMBER 805-650-8808		TERMS 0% 30 Days % Days	
REFER INQUIRIES TO BUYER MARIA MORENO		TELEPHONE NUMBER 805.645.1322	EMAIL ADDRESS Maria.Moreno@ventura.org		
FOB Destination		START DATE 01/02/16	END DATE 01/01/17	PROCUREMENT FOLDER 71708	
REASON FOR MODIFICATION INCREASE THRESHOLDS AMOUNT BY \$200,000.00					
MASTER AGREEMENT DESCRIPTION IN ACCORDANCE WITH COUNTY OF VENTURA CONTRACT #6500, VENDOR SHALL FURNISH STANDARD PERSONAL COMPUTERS AND RELATED PRODUCTS, IN THE CATEGORIES SHOWN BELOW AS REQUESTED BY COUNTY OF VENTURA DEPARTMENTS/AGENCIES. DELIVERY ORDERS ARE REQUIRED - DO NOT ACCEPT ORDERS WITHOUT PRINTED DOCUMENT. PROCUREMENT SERVICES MUST APPROVE ANY EXCEPTIONS. DEPARTMENTS ARE RESPONSIBLE FOR ENSURING THAT PURCHASES UNDER THIS PRICE AGREEMENT CONFORM WITH COUNTY OF VENTURA TECHNOLOGY/INFORMATION SYSTEMS POLICIES. HARDWARE/SOFTWARE THAT REQUIRES CONNECTIVITY TO OTHER PERSONAL COMPUTERS OR MAINFRAME COMPUTERS ARE SPECIFICALLY NOT ALLOWED HEREUNDER.					
LINE NO.	COMMODITY DESCRIPTION	UNIT	LINE AMOUNT		
1	MICROCOMPUTERS, DESKTOP	EA			
2	CABLE, COMPUTER	EA			
3	MICROCOMPUTERS, LAPTOP	EA			
4	SERVERS, MICROCOMPUTER, 64 BIT PROCESSOR	EA			
5	COMMUNICATION BOARDS: FAX MODEL M (INTERNAL), ETC.	EA			
6	DRIVES, HARD/FIXED DISK	EA			
7	MONITORS, COLOR, AND MONOCHROME (CGA, VGSA, SVGA, ETC).	EA			
8	NETWORK COMPONENTS: ADAPTER CARDS, BRIDGES, CONNECTORS, XPA	EA			
9	PRINTERS, LASER, ETC.	EA			
10	PERIPHERALS, MISCELLANEOUS: GRAPHIC DIGITIZERS, JOY STICKS	EA			
11	POWER SUPPLIES: SURGE PROTECTORS, UNINTERRUPTIBLE POWER STR	EA			
12	SOFTWARE, ACCOUNTING/FINANCIAL: BOOKKEEPING, BILLING	EA			
13	INSTALLATION OF COMPUTERS, PERIPHERALS, AND RELATED EQUIP	EA			
14	COMPUTERS, DATA PROCESSING EQUIPMENT MAINT AND REPAIR	EA			
15	HEADSETS AND HEADSET ACCESSORIES	EA			

MASTER AGREEMENT TERMS:

INDEMNITY AND INSURANCE REQUIREMENTS:

Continued

MASTER AGREEMENT

L.5.a

MASTER AGREEMENT NUMBER	PRINT DATE	FUNCTION/TYPE	NOT TO EXCEED	PAGE
COMPUWAVE000FY17MA01	12/30/16	Modification	\$8,200,000.00	2 of 3

MASTER AGREEMENT TERMS:

POLICY LIMITS AND ENDORSEMENTS VARY, AND ARE SPECIFIC TO THE SERVICES BEING PROVIDED. REQUIREMENTS ARE PROVIDED AND REVIEWED WITH EACH VENDOR PRIOR TO RELEASE OF THE PURCHASE ORDER. REQUIREMENTS INCLUDE, BUT ARE NOT LIMITED TO, PUBLIC LIABILITY, PROPERTY DAMAGE, AUTO, WORKERS COMPENSATION, ADDITIONAL INSURED, ETC.

VENDORS ARE REQUIRED TO MAINTAIN CURRENT CERTIFICATES OF INSURANCE ON FILE WITH THE COUNTY OF VENTURA/PROCUREMENT SERVICES.

FAILURE TO MAINTAIN AND PROVIDE NEW CERTIFICATES FOR REQUIRED INSURANCE COVERAGES, WITHIN 30 DAYS OF EXPIRATION, WILL RESULT IN CANCELANON OF PURCHASE ORDER.

VENDOR IS HEREBY ADVISED NOT TO PROVIDE SERVICES TO THE COUNTY IF INSURANCE COVERAGE HAS EXPIRED.

RECYCLED/NON-RECYCLED REPORTING REQUIREMENTS:

THE SUPPLIER SHALL REPORT THE TOTAL DOLLAR AND UNIT VOLUME OF RECYCLED AND NON-RECYCLED PRODUCTS SUPPLIED TO EACH COUNTY DEPARTMENT DURING THE FISCAL YEAR. THIS REPORT SHALL BE SUBMITTED BY SEPTEMBER 30TH, EACH YEAR, FOR THE PREVIOUS FISCAL YEAR ENDING JUNE 30TH. REPORTING FORMAT AND CONTENT REQUIREMENTS ARE ATTACHED.

LINE ITEM TOTAL:

VENDOR - READ IMPORTANT - THE TERMS INCLUDED WITH THIS MASTER AGREEMENT AND THOSE SET FORTH IN OUR BID OR QUOTATION, AND/OR INCORPORATED HEREIN, BY REFERENCE, BECOME PART OF THIS ORDER

Rosa Cenicerros, CPPO
Procurement Services Manager



COUNTY OF VENTURA MASTER AGREEMENT General Conditions

1. **INVOICING.** Upon submission of itemized invoices, payment shall be made at the prices stipulated herein for supplies delivered and accepted or services rendered and accepted (less deductions, if any) as herein provided. Payment on partial deliveries may be made whenever amounts due so warrant or when requested by the vendor and approved by the Purchasing Agent/Procurement Services Manager.
2. **SUBSTITUTIONS.** Substitutions, changes, and articles other than specified, must be authorized in writing by the Purchasing Agent/Procurement Services Manager.
3. **COMPLIANCE.** All items supplied shall comply with all applicable Federal and State Occupational Safety and Health Laws, Standards, and Regulations.
4. **PRODUCT LIABILITY.** The vendor certifies to having insurance covering product liability should malfunction occur causing injury.
5. **F.E.T. EXEMPTION.** Ventura County is exempted from payment of Federal Excise Tax. No federal tax shall be included in price.
6. **SALES TAX NOT INCLUDED.** Unless otherwise definitely specified, the prices stated herein do not include California sales and use tax. The County of Ventura is subject to California State sales and use tax. If you are licensed to collect this tax, include it on your invoice.
7. **DEFAULT BY VENDOR.** The County reserves the right to cancel an order if goods are not delivered as directed and within the time specified. In case of default by the vendor, the County of Ventura may procure the articles or services from other sources and may deduct from any monies due, or that may thereafter become due to the vendor, the difference between the price named in the contract or Master Agreement and actual cost thereof to the County of Ventura. Prices paid by the County shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent/Procurement Services Manager.
8. **CHARGES NOT INCLUDED ON FACE NOT ACCEPTABLE.** No charge will be accepted for packing, boxing, or cartage, except as specified on the face of this Master Agreement. Freight collect shipments will not be accepted. Merchandise will not be accepted if payment is to be made at the time of delivery.
9. **TITLE.** Except as otherwise expressly provided herein, title to and risk of loss on all items shipped by seller to buyer shall pass to the buyer upon buyer's inspection and acceptance of such items at buyer's building.
10. **CHANGES WITHOUT NOTICE PROHIBITED.** No changes in price, quantity or merchandise will be recognized or accepted by the County of Ventura without written notice of acceptance by the Purchasing Agent/Procurement Services Manager.
11. **PATENT AND COPYRIGHT PROTECTION.** The vendor shall hold the County of Ventura, its officers, agents, servants and employees harmless and indemnify it from liability of any nature or kind because of use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used under this MA, and agrees to defend, at vendor's own expense, any and all actions brought against the County of Ventura or vendor because of the unauthorized use of such articles.
12. **FAILURE TO PERFORM.** In the event the vendor fails to perform within the time specified, if any, or if no time is specified, within a reasonable time after placement of an order as determined by the Purchasing Agent/Procurement Services Manager, he may, by written notice, cancel the order or accept the goods and, in either event, may hold the vendor liable for any damages or detriment caused County by reason of failure to perform in accordance with these conditions. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent/Procurement Services Manager.
13. **ASSIGNMENT.** This contract is not assignable by contractor, either in whole or in part, without the prior written approval of the Purchasing Agent/Procurement Services Manager of the County of Ventura.
14. **APPLICABILITY TO HEIRS.** Time is of the essence of each and all the provisions of this agreement, and subject to the limitations of Paragraph 9, the provisions of this Master Agreement shall extend to and be binding upon and insure to the benefits of the heirs, executors, administrators, successors, and assigns of the respective parties hereto.
15. **ALL UNDERSTANDINGS IN WRITING.** It is mutually understood and agreed that no alteration or variation of terms of this MA shall be valid unless made in writing and signed by the parties hereto, and that no oral understandings or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on any of the parties hereto.
16. **FORCE MAJEURE.** The vendor will not be held liable for failure or delay in the fulfillment of conditions of Master Agreement if hindered or prevented by fire, strikes, or Acts of God.
17. **CASH DISCOUNTS.** In connection with any cash discount specified on this MA, time will be computed from the date of complete delivery of the supplies or equipment as specified, or from date correct invoices are received by the ordering agency if the latter date is later than the date of delivery. For the purpose of earning the discount, payment is deemed to be made on the date of mailing of the County warrant or check.
18. **INDEMNIFICATION AND HOLD HARMLESS.** All activities and/or work covered by this MA shall be at the risk of VENDOR alone. VENDOR agrees to defend, indemnify and save harmless the COUNTY of Ventura, including all of its boards, agencies, departments, officers, employees, agents and volunteers, against any and all claims, lawsuits (whether against VENDOR, COUNTY of Ventura or others), judgements, debts, demands and liability, including those arising from injuries or death of persons and for damages to property, arising directly or indirectly out of the obligations of this MA or undertaken or out of operations conducted or subsidized in whole or in part by VENDOR, save and except claims or litigations arising through the sole negligence or wrongdoing and/or sole willful misconduct of COUNTY of Ventura.

CITY OF OXNARD RFP FIRE SERVICE PROMOTIONAL SERVICES PRICING PROPOSAL OF MORRIS & McDANIEL, INC.		
ENTRY LEVEL FIREFIGHTER		
One	Conduct Job Analysis	\$ 2,250.00
Two	Conduct Candidate Orientation Sessions	\$ 1,250.00
Three	Develop Multiple Choice Test	\$ 1,750.00
Four	Develop Oral Component	\$ 2,250.00
Five	Administer Written Test - 3 occasions/locations	\$ 1,500.00
Six	Administer Oral Component - 3 occasions/locations	\$ 1,500.00
Seven	Score Written Test	\$ 500.00
Eight	Recruit and Train Assessors/Evaluators	\$ 1,000.00
Nine	Oversee and supervise Oral Component Scoring	\$ 1,500.00
Ten	Provide Feedback on Test Results	\$ 500.00
Eleven	Assist with Any Appeals/Rescore As Necessary	INCLUDED
Twelve	Report Final Standing of Candidates Combined Scores	\$ 500.00
Thirteen	Assemble and Preserve Documentation of Results	\$ 500.00
	SUB-TOTAL ENTRY LEVEL	\$ 15,000.00
FIRE BATTALION CHIEF		
One	Conduct Job Analysis	\$ 8,500.00
Two	Conduct Candidate Orientation Sessions	\$ 3,500.00
Three	Develop Oral Assessment Process Exercises	\$ 8,500.00
Four	Administer Oral Assessment Exercises	\$ 6,500.00
Five	Recruit and Train Assessors/Evaluators	\$ 3,500.00
Six	Oversee and supervise Oral Component Scoring	\$ 9,000.00
Seven	Provide Feedback on Test Results	\$ 2,500.00
Eight	Assist with Any Appeals/Rescore As Necessary	INCLUDED
Nine	Report Final Standing of Candidates Combined Scores	\$ 1,500.00
Ten	Assemble and Preserve Documentation of Results	\$ 1,500.00
	SUB-TOTAL BATTALION CHIEF	\$ 45,000.00
	OVERALL TOTAL PRICE FOR RFP	\$ 60,000.00
SEE ATTACHED STATEMENT RE PROVISION OF EXPERT TESTIMONY COSTS		

Attachment 8

Project Investment

Oxnard, CA Entry-Level Fire and Promotional Battalion Chief Processes					
Entry-Level Firefighter (Estimate 2000 candidates)					
Project Step	Consultant Hrs.	Consulting Assoc. Hrs.	Tech. Wrtr. Hrs	Admin. Hrs.	Cost
Job Analysis	20	30	0	4	\$6,090
Incumbent interviews/observations.	10	10			
Job analysis questionnaire development and admin.	4	8		1	
Analysis and technical reporting.	6	12		3	
Transportability Study	6	10	0	0	\$1,860
Conduct validity transportability study.	6	10			
Written Job Knowledge Examination	12	0	0	0	\$38,220
Provision of NFSI examination (\$18/exam, estimated 2000 exams).	\$36,000				
Administer exam on-site (3 administrations).	12				
Oral Interview Development	50	56	0	10	\$13,800
Design eight oral interview questions based on input from SMEs, including candidate preparation materials, scripts, and rating criteria/guidelines.	26				
Review questions with SMEs to refine details and ensure accuracy of criteria and create final interview document.	5				
Conduct assessor training.	8				
Administration of oral interview (onsite for an estimated 4 days).		40			
Data entry, standardization and compilation of final scores.	6	8		10	
Project report.	5	8			
Project Expenses					\$7,675
Consultant travel-related costs	\$6,925				
Administrative costs (shipping, freight, printing)	\$750				
TOTAL PROJECT INVESTMENT					\$67,645
Project Notes					
Client will be responsible for providing a suitable site at which to conduct exams and assessments.					
Client will be responsible for providing assessors for the oral interview component and for all costs associated with assessors.					

Oxnard, CA Entry-Level Fire and Promotional Battalion Chief Processes

Fire Battalion Chief (Estimate 7 candidates)

Project Step	Consultant Hrs.	Consulting Assoc. Hrs.	Tech. Wrtr. Hrs	Admin. Hrs.	Cost
Job Analysis	15	14	0	4	\$3,965
Incumbent interviews/observations.	8				
Job analysis questionnaire development and admin.	2	6		1	
Analysis and technical reporting.	5	8		3	
Assessment Center Development	54	30	0	1	\$12,275
Design three assessment center exercises (one situational assessment exercise, one tactical exercise and professional history/resume review) based on input from SMEs, including candidate preparation materials, scripts, and rating criteria/guidelines.	32				
Review exercises with SMEs to refine exercise details and ensure accuracy of criteria.	4				
Develop efficient assessment schedule and coordinate needs for assessment site.	1				
Recruit assessors and coordinate travel logistics (estimated 10 assessors to create 3 panels)	1	9			
Administer the assessment center (estimated 7 candidates: 2 days, 2 staff)	14	14			
Compile assessment scores and conduct quality controls.	1	2		1	
Develop candidate feedback reports.	1	5			
Candidate Orientation Presentation	4	0	0	0	\$740
Prepare and deliver a candidate preparation/orientation presentation.	4				
Technical Report	4	8	1	0	\$1,410
Draft report to document test development, validation and results.	4	8	1		
Project Expenses					\$4,660
Consultant travel-related costs		\$4,460			
Administrative costs (shipping, freight, printing)		\$200			
TOTAL PROJECT INVESTMENT					\$23,050

Project Notes

Client will be responsible for providing a suitable site at which to the assessment.

Client will be responsible for providing lunch and refreshments during assessment center and for all other assessor-related costs.

Schedule of Hourly Rates - IOS 2018

Category	Rate
Consultant/Industrial Psychologist	\$185/hour
Consulting Associate	\$75/hour
Technical Writer	\$70/hour
Administrative Assistant	\$35/hour

COUNTY OF VENTURA CONTRACT #6500

This contract entered into this 2nd day of January, 2012, by and between the COUNTY OF VENTURA, a political subdivision of the State of California, hereinafter called "County" and CompuWave, hereinafter called "Contractor."

WITNESSETH

WHEREAS, pursuant to Section 3 item f of the County of Ventura Ordinance Code 4084, the Purchasing Agent of the County has the authority to engage independent contractors to perform services for the County, with or without the furnishing of material; and

WHEREAS, the County issued the County-Wide Computer Hardware and Related Services (Desktop Printers) Request for Proposal #5500 on June 24, 2011 for providing various desktop printers, peripherals, accessories and related services throughout County facilities; and

WHEREAS, The Contractor presented a proposal dated July 2011 (hereinafter also "Company's Proposal") and a best and final offer dated December 14, 2011, to supply computer hardware, peripherals, accessories and related services;

WHEREAS, it is necessary and desirable that Contractor be engaged by County for the purpose of supplying Micro Computer, Peripherals and related services hereinafter described: and

WHEREAS, the County and the Contractor are willing to enter into a Supply and Service Contract in accordance with the RFP, the Contractor's response thereto, and Contractor's Best and Final Offer which by this reference are incorporated, though not attached, and the terms and conditions contained herein:

NOW, THEREFORE, IT IS HEREBY AGREED by the parties as follows:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR**

In consideration of the payments hereinafter set forth, Contractor will provide parts and equipment and perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit A attached hereto, County of Ventura Request for Proposal #5500, Contractor's response dated July 2011, Contractor's Best and Final Offer dated December 14, 2011 which by this reference, although not attached, made a part hereof.

2. **PAYMENTS**

In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit A, County will make payment to Contractor in the manner specified in Exhibit A. Payments shall be made Net 30 days.

3. **TERM**

This Contract will be in effect from January 1, 2012, through December 31, 2015 subject to all the terms and conditions set forth herein.

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

Continuation of the contract is subject to the appropriation of funds for such purpose by the Board of Supervisors. If funds to effect such continued payment are not appropriated, County may terminate this project as thereby affected and Contractor will relieve the County of any further obligation therefore.

4. **RESPONSIBILITY OF CONTRACTOR**

The Contractor shall, prior to start of any work awarded hereby, secure at Contractor's own expense all persons, employees and equipment required to perform the contract requirements.

Contractor will be held fully responsible for performance of any subcontractors.

5. **WARRANTIES**

Contractor shall warrant and represent that:

- a. it's work hereunder shall be of professional quality and performed consistent with generally accepted industry standards.
- b. there exists no actual or potential conflict of interest concerning the services to be performed under this agreement. Contractor represents that performance under this agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party.

6. **INDEPENDENT CONTRACTOR**

No relationship of employer and employee is created by this contract, it being understood that Contractor is an independent contractor, and neither Contractor nor any of the persons performing services for Contractor pursuant to this contract, whether said person be member, partner, employee, subcontractor, or otherwise, will have any claim under this contract or otherwise against County for sick leave, vacation pay, retirement benefits, social security, workers' compensation, disability, unemployment insurance benefits, or employee benefits of any kind.

It is further understood and agreed by the parties hereto that, except as provided in this contract, Contractor in the performance of its obligation hereunder is subject to the control or direction of County merely as to the result to be accomplished by the services hereunder agreed to be rendered and performed and not as to the means and methods for accomplishing the results.

If, in the performance of this contract, any third persons are employed by Contractor, such persons will be entirely and exclusively under direction, supervision and control of Contractor. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of employment or requirements of law, will be determined by Contractor, and County will have no right or authority over such persons or the terms of such employment, except as provided in this contract.

The Contractor will comply with all of the provisions of the Worker's Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all

amendments, thereto; and all similar State and Federal acts or laws applicable; and will indemnify and hold harmless the County of Ventura from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including attorney's fees and costs, presented, brought or recovered against the County of Ventura, for or on account of any liability under any of said Acts which may be incurred by reasons of any work to be performed under this Contract.

7. NON-ASSIGNABILITY

Contractor will not assign this Contract or any portion thereof, to a third party without the prior written consent of County, and any attempted assignment without such prior written consent will be null and void and will be cause, at County's sole and absolute discretion, for immediate termination of this Contract.

8. TERMINATION

The County shall be able to cancel the contract, without penalty to the County, as follows:

- a. County's obligation hereunder will be limited to the funds appropriated by the Board of Supervisors for this purpose for each fiscal year in which this contract is in effect. In the event that the Board of Supervisors fails to so appropriate said funds; County's obligation hereunder will terminate at the end of the fiscal year for which funds were appropriated or at the end of the contract term, whichever occurs first.
- b. The County may terminate this contract under the provisions of, "Rights and Remedies of County for Default" paragraph for cause.
- c. The County at its sole option may terminate this agreement upon thirty (30) days written notice with or without cause. In the event of termination under this paragraph, Contractor shall be paid for all work provided to the date of termination, as long as such work meets the terms and conditions of this agreement. On completion or termination of this agreement, County shall be entitled to immediate possession of and Contractor shall furnish all computations, correspondence and

other pertinent data gathered or computed by Contractor specifically for the services required hereunder prior to such termination.

Contractor hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this paragraph in the event of such termination.

This right of termination belonging to the County of Ventura may be exercised without prejudice to any other remedy, which it may be entitled at law or under this agreement.

Upon termination or other expiration of this contract, each party will assist the other party in the orderly termination of the contract and the transfer of all assets, tangible and intangible, as may facilitate the orderly, non-disrupted business continuation of each party.

9. **DEFAULT**

If Contractor defaults in the performance of any term or condition of this contract, Contractor must cure that default by a satisfactory performance within 10 days after service upon Contractor of written notice of the default. If Contractor fails to cure the default within that time, then County may terminate this contract without further notice.

The foregoing requirement for written notice and opportunity to cure does not apply with respect to paragraph 7 above.

10. **INDEMNIFICATION, HOLD HARMLESS AND WAIVER OF SUBROGATION**

All activities and/or work covered by this contract will be at the risk of Contractor alone. Contractor agrees to defend, indemnify, and save harmless the County of Ventura, including all of its boards, agencies, departments, officers, employees, agents and volunteers, against any and all claims, lawsuits, whether against Contractor, County or others, judgments, debts, demands and liability, including without limitation, those arising from injuries or death of persons and/or for damages to property, arising directly or indirectly out of the obligations herein described or undertaken or out of operations conducted or subsidized in whole or in part by Contractor, save and except claims or litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of County. Contractor agrees to waive all rights of subrogation against County for losses arising directly or indirectly from the activities and/or work covered by this contract.

11. **INSURANCE PROVISIONS**

A) CONTRACTOR, at its sole cost and expense, will obtain and maintain in full force during the term of this contract the following types of insurance:

- 1) Commercial General Liability "occurrence" coverage in the minimum amount of \$1,000,000 combined single limit (CSL) bodily injury & property damage each occurrence and \$2,000,000 aggregate, including personal injury, broad form property

damage, products/completed operations, broad form blanket contractual and \$100,000 fire legal liability.

- 2) Commercial Automobile Liability coverage in the minimum amount of \$500,000 CSL bodily injury & property damage, including owned, non-owned, and hired automobiles. Also to include Uninsured/Underinsured Motorists coverage in the minimum amount of \$100,000 when there are owned vehicles.

Personal Automobile Liability coverage, in the minimum amounts of \$100,000 per Person and \$300,000 each accident Bodily Injury and \$50,000 each Accident Property Damage for each vehicle to be operated in association with this contract that is not covered under Commercial Automobile Liability.

- 3) Workers' Compensation (WC) coverage, in full compliance with California statutory requirements, for all employees of CONTRACTOR and Employer's Liability in the minimum amount of \$1,000,000.
- B) All insurance required will be primary coverage as respects COUNTY and any insurance or self-insurance maintained by COUNTY will be excess of CONTRACTOR'S insurance coverage and will not contribute to it.
 - C) COUNTY is to be notified immediately if any aggregate insurance limit is exceeded. Additional coverage must be purchased to meet requirements.
 - D) The County of Ventura, Its Boards, Agencies, Departments, Offices, Employees, Agents, and Volunteers are to be named as Additional Insured as respects work done by CONTRACTOR under the terms of this contract on all policies required (except Workers' Compensation).
 - E) Contractor agrees to waive all rights of subrogation against the County of Ventura, Its Boards, Agencies, Departments, Officers, Employees, Agents and Volunteers for losses arising from work performed by Contractor under the terms of this contract.
 - F) Policies will not be canceled, non-renewed or reduced in scope of coverage until after sixty (60) days written notice has been given to the County of Ventura, Risk Management Division.
 - G) CONTRACTOR agrees to provide COUNTY with the following insurance documents on or before the effective date of this contract:
 1. Certificates of Insurance for all required coverage.
 2. Additional Insured endorsements.

3. Waiver of Subrogation endorsements (a.k.a.: Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others)

Failure to provide these documents will be grounds for immediate termination or suspension of this contract.

12. **NON-DISCRIMINATION**

A. General.

No person will on the grounds of race, color, national origin, religious affiliation or non-affiliation, sex, age, handicap, disability, or political affiliation, be excluded from participation in, be denied the benefits, or be subjected to discrimination under this Contract.

B. Employment.

Contractor will insure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Contract. Contractor's personnel policies will be made available to County upon request.

13. **SUBSTITUTION**

If particular people are identified in Exhibit A as working under this Contract, the Contractor will not assign others to work in their place without written permission from the County Purchasing Agent. Any substitution will be with a person of commensurate experience and knowledge.

14. **INVESTIGATION AND RESEARCH**

Contractor by investigation and research has acquired reasonable knowledge of all conditions affecting the work to be done and labor and material needed, and the execution of this Contract is to be based upon such investigation and research, and not upon any representation made by the County or any of its officers, agents or employees, except as provided herein.

15. **CONTRACT MONITORING**

The County will have the right to review the work being performed by the Contractor under this Contract at any time during Contractor's usual working hours. Review, checking, approval or other action by the County will not relieve Contractor of Contractor's responsibility for the thoroughness of the services to be provided hereunder. This Contract will be administered by Glenna Streed or her authorized representative.

16. **ADDENDA**

County may from time to time require changes in the scope of the services required hereunder. Such changes, including any increase or decrease in

the amount of Contractor's compensation which are mutually agreed upon by and between County and Contractor will be effective when incorporated in written amendments to this Contract.

17. **CONFLICT OF INTEREST**

Contractor covenants that Contractor presently has no interest, including, but not limited to, other projects or independent contracts, and will not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Contractor further covenants that in the performance of this Contract no person having such interest will be employed or retained by Contractor under this contract.

18. **FORCE MAJEURE**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party.

Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact.

If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

19. **NON-EXCLUSIVITY**

The County reserves the right to contract with providers of similar services and/or equipment other than the Contractor when it is reasonably determined to be in the best interest of the County.

20. **CONFIDENTIALITY**

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Contractor under this Contract which County requests in writing to be kept confidential, will not be made available to any individual or organization by Contractor without the prior written approval of the County except as authorized by law.

21. **NOTICES**

All notices required under this Contract will be made in writing and addressed or delivered as follows:

TO COUNTY: COUNTY OF VENTURA
 GENERAL SERVICES AGENCY
 PROCUREMENT SERVICES
 800 SOUTH VICTORIA AVENUE
 VENTURA, CALIFORNIA 93009-1080

TO CONTRACTOR-
 COMPUWAVE
 ATTN: BOB LANDMAN – GENERAL MANAGER
 1839 KNOLL DRIVE
 VENTURA, CA 93003

Either party may, by giving written notice in accordance with this paragraph, change the names or addresses of the persons of departments designated for receipt of future notices. When addressed in accordance with this paragraph and deposited in the United States mail, postage prepaid, notices will be deemed given on the third day following such deposit in the United States mail. In all other instances, notices will be deemed given at the time of actual delivery.

22. **MERGER CLAUSE**

This Contract along with the following documents, which are incorporated into this agreement by reference, hereto constitute the final expression of the agreement of the parties and supersedes any and all other contracts, either oral or written, between Contractor and the County of Ventura, with respect to the subject of this contract.

This contract contains all of the covenants and contracts between the parties with respect to the services required hereunder. Contractor acknowledges that no representations, inducements, promises or contracts have been made by or on behalf of County except those covenants and contracts embodied in this contract. No contract, statement, or promise not contained in this contract will be valid or binding.

This Agreement may not be altered, amended, or modified except by written instrument signed by the duly authorized representatives of both parties. In the event of an inconsistency in this Agreement, the inconsistency shall be resolved in the following order:

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved in the following order:

1. This Agreement;
2. County of Ventura RFP #5500
3. Contractor's proposal dated July 2011

23. **GOVERNING LAW**

The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties under this contract, will be construed pursuant to and in accordance with the laws of the State of California.

24. **SEVERABILITY OF CONTRACT**

If any term of this contract is held by a court of competent jurisdiction to be void or unenforceable, the remainder of the contract terms will remain in full force and effect and will not be affected.

25. **CUMULATIVE REMEDIES**

The exercise or failure to exercise of legal rights and remedies by the County of Ventura in the event of any default or breach hereunder will not constitute a waiver or forfeiture of any other rights and remedies, and will be without prejudice to the enforcement of any other right or remedy available by law or authorized by this contract.

26. **COMPLIANCE WITH LAWS**

Each party to this contract will comply with all applicable laws.

27. **CONSTRUCTION OF COVENANTS AND CONDITIONS**

Each term and each provision of this contract will be construed to be both a covenant and a condition.

IN WITNESS WHEREOF the parties hereto have executed this Contract.

COUNTY OF VENTURA

Glenna Streed

Authorized Signature

Glenna Streed

Printed Name

Sr. Buyer

Title

12-30-11

Date

COMPUWAVE*

Bob Lanson

Authorized Signature

Bob Lanson

Printed Name

GENERAL MANAGER

Title

9/03/2012

Date

80-0068053

Tax Identification Number

COMPUWAVE*

Mohan Asnani

Authorized Signature

MOHAN ASNANI

Printed Name

CEO

Title

1/3/12

Date

* If a corporation, this Contract must be signed by two specific corporate officers.

The first signature must be either the (1) Chief Executive Officer, (2) Chairman of the Board, (3) President, or any (4) Vice President.

The second signature must be the (a) Secretary, an (b) Assistant Secretary, the (c) Chief Financial Officer, or any (d) Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent

AGENDA ITEM NO.: 6

DATE: October 2, 2018

TO: City Council

FROM: Scott Whitney
Police Chief

SUBJECT: Appropriation of Funds for Payment to Adamson Police Products.

CONTACT: Scott Whitney, Police Chief
Scott.Whitney@OxnardPD.org, (805) 385-7624

RECOMMENDATION:

That City Council approves a budget appropriation recognizing \$50,250 of “pass-through” misc. revenue for payment of firearm purchases with Adamson Police Products.

BACKGROUND

The Beretta pistol had been the Police Department’s standard-issue firearm since the early 1990’s. In 2016, the Police Department began a search for a suitable, contemporary replacement for its aging inventory. Following research, testing, and a vendor selection process, the Police Department selected the Sig Sauer P320 pistol (“P320”) to replace the Beretta. The Police Department selected Adamson Police Products (“Adamson”) as the vendor that would supply 250 P320’s for the conversion.

The total cost to purchase the Sig Sauer pistols was \$105,813. However, a rebate/sellback plan for the Police Department’s Beretta inventory reduced the City’s net purchase cost to \$36,563. The Police Department received a \$19,000 credit from Adamson for Berettas turned directly in to them. Officers who wished to purchase their Berettas wrote checks to the City of Oxnard, accounting for an additional \$50,250.

The memorandum submitted to the Contract Compliance Review Committee described the method to reduce direct costs described this plan as having two parts:

Appropriation of Funds for Payment to Adamson Police Products

October 2, 2018

Page 2

- *“Liquidate the Department’s existing Beretta inventory of 277 handguns. The Police Department would sell its Berettas to a selected company, and receive either a rebate or credit towards the P320 purchase.*
- *Should officers wish to purchase their issued Beretta, they would be able to do so for the fair market value price that matches what would have been obtained in a sellback to a selected company.”*

The table below shows the cost breakdown for the pistols.

Total cost for purchase of 250 Sig Sauer pistols	\$105,813
Officers’ purchase of their old Beretta pistols	-\$ 50,250
Credit from Adamson for Beretta pistols	-\$ 19,000
Net cost to City after rebate/sellback	\$ 36,563

The Contract Compliance Review Committee reviewed the proposed transaction on May 4, 2017, and the City Council approved the purchase on May 16, 2017. The Police Department took delivery of the P320’s in early 2018, and it is now its standard-issued firearm.

The \$50,250 that was collected from the police officers was placed into a revenue account (571-2190-871-8132). The purpose of this agenda report is to recognize the \$50,250 collected from the police officers, and appropriate those “pass through” funds to settle the remaining balance with Adamson.

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 to the General Fund. The pass-through source will be recognized as General Fund Police Misc. Revenue for payment of firearm purchases.

Prepared by Jason Benites, Assistant Police Chief

ATTACHMENTS:

Attachment A: Special Budget Appropriation

REQUEST FOR ADMINISTRATIVE BUDGET ADJUSTMENT

Department: POLICE
 Project/Program
 Manager: JASON BENITES

Date: September 10, 2018
 Phone: 385-7626

Reason for Appropriation:

To recognize revenues collected and appropriate for the purchase of firearms for the department. The vendor is Adamson Police Products.

Accounts and Descriptions

AMOUNT

Fund: 101 GENERAL FUND

Revenues/Transfers In

POLICE-PATROL

101-2101-581-7519	Miscellaneous Revenues-Other reimbursements	50,250
	Sub-total Revenues	50,250

Expenditures/Transfers Out

POLICE-PATROL

101-2101-802-8132	Materials & Supplies/Minor equipment	50,250
	Sub-total Expenditures	50,250

Net Change to Fund Balance	0
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Approvals

Department Director

Chief Financial Officer

City Manager

ACM Initial

RECEIVED
 FINANCE/ADMINISTRATION
 2018 SEP 11 AM 11:19

DOES NOT REQUIRE CITY COUNCIL AUTHORIZATION

BA# (Finance Use Only) _____
 BA DOC.# (Finance) _____

Revised : 2

Packet Pg. 64



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent
AGENDA ITEM NO.: 7

DATE: October 2, 2018

TO: City Council

FROM: Rosemarie Gaglione
Public Works Director

SUBJECT: Second Amendment to Tree Trimming Services Agreement.

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

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute a Second Amendment to Agreement No. 7517-16-CM with West Coast Arborists, Inc. in the amount of \$720,000 to increase the amount to a total of \$1,666,225 for tree trimming services.

BACKGROUND

The Public Works Department is responsible for over 56,000 trees in parkways, medians and parks throughout the City of Oxnard. However, the City only has two employees who trim and maintain these trees. In 2015, the City of Glendale issued a solicitation for tree trimming and awarded a five-year \$5,317,500 contract to West Coast Arborists, Inc. (West Coast). The City of Oxnard “piggybacked” off of the City of Glendale’s agreement, meaning the City of Oxnard used the City of Glendale’s 2015 solicitation rather than rebid the work.

On June 28, 2016, the Oxnard City Council awarded Agreement Number 7517-16-CM to West Coast Arborists, Inc. (West Coast) in the amount of \$246,255 for a period of three years to provide maintenance services for trees located in the City. Under both cities’ agreements, West Coast must perform and provide all necessary labor, services, supervision, materials, tools, equipment, apparatus, supplies, temporary utilities, utility connections and transportation for tree trimming services. These services include tree site evaluation, tree pruning, palm tree pruning, tree root pruning, tree watering, tree inventory maintenance and technical support, reporting, inspection and project management.

Second Amendment to Tree Trimming Services Agreement

October 2, 2018

Page 2

On June 27, 2017, the Oxnard City Council approved a first amendment to increase the agreement by \$700,000 and to extend the contract by one year to provide additional services for trees located in both the City and various special assessment districts, including landscape maintenance districts (LMDs) and community facilities districts (CFDs). Both the agreement and the first amendment have been funded by Measure O, the General Fund and various LMDs and CFDs.

Staff now wishes to enter into a second amendment with West Coast to increase the total amount of the current agreement from \$946,225 to \$1,666,225. The additional \$720,000 will fund additional tree maintenance in the LMDs and CFDs. This Second Amendment would fund these tree services in the medians, parkways and parks within the various LMDs and CFDs through fiscal year 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 Second Amendment to the West Coast contract is being funded exclusively by the special assessment districts. Staff has budgeted \$607,725 for on-going tree maintenance in the various assessment districts in fiscal years 2019 and 2020, as shown below.

Anticipated in Fiscal Year 2019

LMD 4	Mandalay Beach	125-1606-805-8229	\$10,000
LMD 28	Harborside	148-1606-805-8229	\$2,400
LMD 32	Oak Park	153-1606-805-8229	\$6,000
LMD 34	Sunrise Pointe	156-1606-805-8229	\$2,400
LMD 36	Villa Santa Cruz	157-1606-805-8229	\$82,000
LMD 37	Pacific Breeze	158-1606-805-8229	\$5,000
LMD 38	Aldea Del Mar	159-1606-805-8229	\$7,200
LMD 39	El Promeso Sueno	160-1606-805-8229	\$16,700
LMD 39	DR Horton	161-1606-805-8229	\$2,025
LMD 46	Daily Ranch	170-8003-899-8229	\$15,000
LMD 50	PV Senior Housing	170-8007-899-8229	\$5,000
LMD 51	Pfeiler	170-8008-899-8229	\$5,000
LMD 52	Wingfield	170-8009-899-8229	\$20,000
LMD 54	Meadow Crest	170-8012-899-8229	\$8,000
LMD 55	Wingfield West	170-8013-899-8229	\$10,000
LMD 58	Westwind	170-8016-899-8229	\$6,000
LMD 60	Artisan	170-8016-899-8229	\$5,000

Second Amendment to Tree Trimming Services Agreement

October 2, 2018

Page 3

CFD 2	Westport	175-1606-805-8229	\$10,000
CFD 4	Seabridge	173-1606-805-8229	\$30,000
CFD 5	Riverpark	175-1606-805-8229	\$50,000
Waterways	Zone 1 – Mandalay Bay	121-1606-805-8229	\$10,000
		Total	\$307,725

Anticipated in Fiscal Year 2020

LMD 3	Riverridge	124-1606-805-8229	\$30,000
LMD 28	Harborside	148-1606-805-8229	\$20,000
LMD 30	Haas Automation	151-1606-805-8229	\$10,000
LMD 33	El Paseo	154-1606-805-8229	\$10,000
LMD 38	Aldea Del Mar	159-1606-805-8229	\$30,000
LMD 40	Cantada	162-1606-805-8229	\$25,000
LMD 41	Pacific Cove	163-1606-805-8229	\$20,000
LMD 42	Cantabria/Coronado	164-1606-805-8229	\$15,000
LMD 43	Greenbelt	165-1606-805-8229	\$20,000
LMD 47	Sycamore Place	170-8004-899-8229	\$10,000
LMD 49	Cameron Ranch	170-8006-899-8229	\$20,000
CFD 2	Westport	175-1606-805-8229	\$10,000
CFD 4	Seabridge	173-1606-805-8229	\$30,000
CFD 5	Riverpark	175-1606-805-8229	\$50,000
		Total	\$300,000

Additionally, \$112,275 will be utilized for as-needed services, based upon available funding in the various assessment districts' approved budgets, for a total of \$720,000. The agreement is an on-call agreement, and task orders will be issued based on need and funding availability of each district.

Prepared by Jeri Cooper, Special Districts Project Manager.

ATTACHMENTS:

Attachment A - 7517-16-CM Second Agreement West Coast Arborist

SECOND AMENDMENT TO AGREEMENT FOR TRADE SERVICES

This Second Amendment ("Second Amendment") to the Agreement for Trade Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 19th day of June, 2018, by and between the City of Oxnard, a municipal corporation ("City"), and West Coast Arborists, Inc. ("Vendor"). This Second Amendment amends the Agreement entered into on June 28, 2016, by City and West Coast Arborists, Inc. The Agreement previously has been amended on June 27, 2017, by a First Amendment.

City and Vendor agree as follows:

1. Two new recitals are hereby added to the Agreement just before the last recital and shall state the following:

"Whereas, as of the date of the First Amendment, the City wishes to add \$700,000 for services with Vendor until June 19, 2020, which results in a total agreement amount of \$946,255; and"

"Whereas, as of the date of the Second Amendment, the City wishes to add \$720,000 for Vendor's services, which results in a total agreement amount of \$1,666,225; and"

2. In recital 7 of the Agreement, the figure "\$946,225" is removed and replaced with "\$246,255", thereby undoing the first change in the First Amendment.

3. In Section 3 of the agreement, the figure \$946,255, is deleted and replaced with the figure \$1,666,225.00.

4. Section 1 is amended to include Exhibit C-1 attached hereto and incorporated herein by this reference into the Agreement.

5. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

Agreement No. 7517-16-CM

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

CITY OF OXNARD

VENDOR/CONTRACTOR/CONSULTANT

☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more)	_____	Date	_____	Patrick Mahoney, President	_____	Date
☐ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00)						
☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00)						

Richard Mahoney, Assistant Secretary	_____	Date
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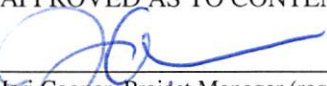
ATTEST:

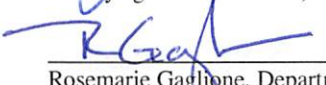
Michelle Ascencion, City Clerk (if agreement is \$250,000.01 or more)	_____	Date
--	-------	------

APPROVED AS TO FORM:

 Stephen M. Fischer, City Attorney (required for any agreement amount)	_____	6/13/18 Date
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APPROVED AS TO CONTENT:

 Jeff Cooper, Project Manager (required for any agreement amount)	_____	5/29/18 Date
---	-------	-----------------

 Rosemarie Gaglione, Department Head (if agreement is \$25,000.01 or more)	_____	5/30/18 Date
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APPROVED AS TO AMOUNT:

Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more)	_____	Date
 Jesus Nava, Assistant City Manager	_____	Date

APPROVED AS TO INSURANCE:

Mike More, Risk Manager (required for any agreement amount)	_____	Date
---	-------	------

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

Agreement No. 7517-16-CM

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

CITY OF OXNARD

VENDOR/CONTRACTOR/CONSULTANT

☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____
☐ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00) _____
☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00) _____

 Patrick Mahoney, President _____ Date 8/24/18

 Richard Mahoney, Assistant Secretary _____ Date 8/24/18

ATTEST:

 Michelle Ascencion, City Clerk (if agreement is \$250,000.01 or more) _____ Date _____

APPROVED AS TO FORM:

 Stephen M. Fischer, City Attorney (required for any agreement amount) _____ Date _____

APPROVED AS TO CONTENT:

 Jeri Cooper, Project Manager (required for any agreement amount) _____ Date _____

 Rosemarie Gaglione, Department Head (if agreement is \$25,000.01 or more) _____ Date _____

APPROVED AS TO AMOUNT:

 Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more) _____ Date _____

 Jesus Nava, Assistant City Manager _____ Date _____

APPROVED AS TO INSURANCE:

 Mike More, Risk Manager (required for any agreement amount) _____ Date _____

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

Exhibit C-1 Schedule of Services

Location	Service	FY 18/19	FY 19/20	FY 20/21
CFD 2 Westport	Canary Island Palms Trim	Nov-18	Nov-19	Nov-20
CFD 4 Seabridge	Palm Tree Trimming	Nov-18	Nov-19	Nov-20
CFD 5 Riverpark	Palm Tree Trimming	Jun-19	Jun-20	Jun-21
CFD 5 Riverpark	Tipu & Chinese Elm Trimming	Oct-18	Oct-19	Oct-18
CFD 5 Riverpark	Tipu & Chinese Elm Trimming	Apr-19	Apr-20	Apr-21
CFD 5 Riverpark	Liquid Ambers in Medians	Apr-19	Apr-20	Apr-21
LMD 03 Riverridge	Complete Tree Trim		Jul-19	
LMD 28 Harborside	Complete Tree Trim		Jul-19	
LMD 30 Haas Automation	Complete Tree Trim		19-Aug	
LMD 32 Oak Park	Trim large Oak Trees in Park	Jan-18		
LMD 33 El Paseo (Rio Del Sol)	Complete Tree Trim	Oct-18		
LMD 34 Sunrise Pointe	Complete Tree Trim		Jul-19	
LMD 36 Villa Santa Cruz	Complete Tree Trim	Oct-18		
LMD 37 Pacific Breeze	Partial Trim	Feb-18		
LMD 38 Aldea del Mar	Complete Tree Trim		May-20	
LMD 39 El Sueno Promesa/DR Horton	Complete Tree Trim			20-Jul
LMD 40 Cantada	Complete Tree Trim		19-Jul	
LMD 41 Pacific Cove	Complete Tree Trim	Nov-18		
LMD 42 Cantabria/Coronado	Partial Trim	Oct-18		
LMD 43 Greenbelt	Complete Tree Trim		19-Jul	
LMD 46 Daily Ranch	Partial Trim	May-19		Jun-21
LMD 47 Sycamore Place	Partial Trim	Oct-18		
LMD 49 Cameron Ranch	Complete Tree Trim	Oct-18		
LMD 50 PV Senior Housing	Partial Trim	Mar-19		
LMD 51 Pfeiler	Partial Trim	Jan-19		Jan-21
LMD 52 Wingfield	Partial Trim	Apr-19		
LMD 54 Meadow Crest	Partial Trim	May-19		
LMD 55 Wingfield West	Partial Trim	Apr-19		
LMD 58 Westwind	Partial Trim	May-19		
LMD 60 Artisian	Partial Trim	Feb-19		
Waterways Zone 1 - Mandalay Bay	Trim of Greenbelt Trees and trees at monument signs	Oct-18		



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent

AGENDA ITEM NO.: 8

DATE: October 2, 2018

TO: City Council

FROM: Rosemarie Gaglione
Public Works Director

SUBJECT: Five Agreements for On-Call Soils and Material Testing and Inspection Services.

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

RECOMMENDATION:

That City Council award and authorize the Mayor to execute Agreement Numbers A-8078 with Fugro USA Land, Inc., A-8079 with Leighton Consulting, Inc., A-8080 with NV5 West, Inc., A-8081 with Earth Systems Pacific and 8256-18-PW with Twining, Inc., each in the amount of \$250,000 and for three-year terms, for on-call soils and materials testing and inspection services.

BACKGROUND

The City requires on-call soils and material testing and specialty inspection services in order to complete various design and construction projects, including street improvements and water pipeline installations. The City has neither the staff nor laboratory facilities to perform these services internally.

The City secured multiple firms for these services following a request for proposals (RFP) process in 2013, and those agreements reached their maximum allowable renewal periods. Thus, on August 24, 2017, the City issued a request for qualifications (RFQ) for on-call soil and material testing and inspection services. Ten firms submitted responses to the RFQ, and a staff committee reviewed and ranked all of the proposals. The committee recommended entering into agreements with the top five rated firms: Fugro USA Land, Inc., Leighton Consulting, Inc., NV5 West, Inc., Earth Systems Pacific and Twining, Inc.

The firms each agreed to a set fee schedule for basic services. Work will be assigned to each firm by task order on a rotation basis unless a project requires a specific area of expertise

Agreements for On-Call Soils and Material Testing and Inspection Services

October 2, 2018

Page 2

offered by a firm, in which case the firm with the required expertise will be assigned the work outside of the usual rotation process. A quote will be obtained for each assigned service, and each task order will be approved per current City standard practices. The agreement with each firm is for a three-year term with a total amount not to exceed \$250,000.

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

These are on-call services contracts, work will be performed by task order based on the need and sufficient funding or budgets of the requested department.

Prepared by Renee Hatcher, Construction Project Coordinator

ATTACHMENTS:

Agreement A-8078 FUGRO

Agreement A-8079 LEIGHTON

Agreement A-8080 NV5

Agreement A-8081 EARTH SYSTEMS

Agreement 8256-18-PW TWINING

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”) is made and entered into in the County of Ventura, State of California, this 1st day of July, 2018, by and between the City of Oxnard, a municipal corporation (“City”), and Fugro USA Land, 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 for General On-Call Geotechnical Soils and Material Testing and Laboratory Services and Inspection Services, as per **Exhibit A** attached hereto and incorporated by this reference in full herein (the “Services”). The City will request and assign work scopes as such work becomes available and each of these assignments are incorporated in full herein. 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 agrees to 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. Consultant agrees that 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 the City Engineer (“**Manager**”), subject to the direction of the City Manager or Department Manager.

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 agrees to 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 pursuant to a schedule provided by the Consultant and approved by the City for each of the assignments. 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, Ed Sullivan 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 project requirements.

12. Term of Agreement

This Agreement shall begin on, July 1, 2018, and expire on June 30, 2021.

13. Termination

a. This Agreement may be terminated by City with or without cause 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. City agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated by Consultant with or without cause and at no cost to the Consultant if Consultant notifies Manager, in writing, of Consultant'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 and only if all assignments accepted by Consultant have been completed prior to the date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$250,000 for the Services at rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein. Non-basic services will be paid at an agreed upon task order quote amount after approval by Manager.

b. In accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work." The Consultant shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director, and are available to any interested party upon request. The Consultant shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Consultant shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit C** and incorporated herein by this reference

c. 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.

d. Consultant agrees that 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.

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

f. 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.

b. Consultant agrees to maintain current monthly records, books, documents, 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.

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.

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

18. Records

a. Consultant agrees that 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

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to 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.

20. 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.

21. Hold Harmless, Indemnity and Defense

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying services:

(1) Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, its City Council, each member thereof, and its directors, officers, and employees (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 misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, allegations, damages, penalties, fines, and judgments; 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"**).

(2) 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 Indemnified Party 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 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.

b. If Consultant does not provide any architectural, landscape architectural, engineering or land surveying services as the Services in this Agreement:

(1) To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless the Indemnified Party from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant's performance of this Agreement or Consultant's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all Claims. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(2) 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 Indemnified Party immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. 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 liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

c. For services under both 21a and 21b, 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.

22. Insurance

a. 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.

b. 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**.

c. 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.

23. 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.

24. Consultant Not Agent

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.

25. Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a **"governmental decision"** as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement.

26. Assignability of Agreement

Consultant agrees that 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.

27. Successors and Assigns

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

28. Fair Employment Practices

a. Consultant agrees that 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. Consultant agrees that, 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 agrees to 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Compliance with Laws

Consultant agrees to comply with all City, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

34. 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.

35. 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.

36. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. 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.

38. 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.

39. 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.

40. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to Fugro USA Land, Inc., 4820 McGrath Street, Suite 100, Ventura, CA 93003 , Attention: Ed Sullivan.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Public Works Department, 305 W Third Street, 3rd Floor, Oxnard, California 93030, Attention: Robert Hearne.

41. 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.

42. 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.

[Signatures on next page]

Agreement No. A-8078

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

CITY OF OXNARD

FUGRO USA LAND, INC.

☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more)	_____	Date	_____	Farid Motamed Vice President	_____	Date	_____
☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01 \$250,000.00)	_____						
☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00)	_____						

Richard Baird, Secretary/Treasurer _____ Date _____

ATTEST:

Michelle Ascencion, City Clerk _____ Date _____
(if agreement is \$250,000.01 or more)

APPROVED AS TO FORM:

Stephen M. Fischer _____ 7/31/18 _____
Stephen M. Fischer, City Attorney Date
(required for any agreement amount)

APPROVED AS TO CONTENT:

Robert Hearne _____ 5.30.18 _____
Robert Hearne, Project Manager (required Date
for any agreement amount)

R. Gaglione _____ 5.30.18 _____
Rosemarie Gaglione, Public Works Director (required if agreement is \$25,000.01 or more) Date

APPROVED AS TO AMOUNT:

N-A _____
~~Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more)~~ Date

N-A _____
~~Jesus Nava, Assistant City Manager~~ ~~Date~~

APPROVED AS TO INSURANCE:

N-A _____
Mike More, Risk Manager (required Date
for any agreement amount)

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

Agreement No. A-8078

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

CITY OF OXNARD

FUGRO USA LAND, INC.

☐ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____

☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00)

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00)

 8-15-18
Farid Motamed Vice President _____ Date _____

 8-17-18
Richard Baird, Secretary/Treasurer _____ Date _____

ATTEST:

Michelle Ascencion, City Clerk _____ Date _____
(if agreement is \$250,000.01 or more)

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney _____ Date _____
(required for any agreement amount)

APPROVED AS TO CONTENT:

Robert Hearne, Project Manager (required for any agreement amount) _____ Date _____

Rosemarie Gaglione, Public Works Director (required if agreement is \$25,000.01 or more) _____ Date _____

APPROVED AS TO AMOUNT:

Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more) _____ Date _____

Jesus Nava, Assistant City Manager _____ Date _____

APPROVED AS TO INSURANCE:

Mike More, Risk Manager (required for any agreement amount) _____ Date _____

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

**EXHIBIT A
ON-CALL SERVICES
SOILS & MATERIAL TESTING & INSPECTION SERVICES
SCOPE OF SERVICES**

SCOPE OF SERVICES

Using the hourly fee rate amount and from that rate, a lump sum amount for the entire duration of each project/task order, which will include but not limited to the following services:

- a. Testing services as assigned for complete projects/tasks, before construction, during construction, and post construction. Assist the City in obtaining any required permits related to this Service.
- b. Inspection services, including but not limited to, specialty construction, deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for complete project/tasks.
- c. Obtain approval of any required permits, City, County, and State for this service.
- d. Provide quality control.
- e. Provide cost estimates for all related services to perform project/task order.
- f. Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- g. Review and assist in answering any RFI (request for information) that may be related to such samples and testing and inspection services.
- h. Maintain good record keeping.
- i. Provide a schedule of each tasks, overall schedule, and reporting process.
- j. Keep communication as required with City staff and consultants.
- k. Other related duties as required by City staff related to these services.

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and where required, certified and/or licensed personnel to accomplish these services on an on-call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement.

Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to, SMAW, GTAW and GMAW (mig/tig), FCAW, PAC, SAW, OSW, LBW, ESW, Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards AWS, ASME, AISI, ANSI, API 1104, B31.1, AWS D1.1, ASME IX, V, VIII, and II A,B,C,E; Boiler and pressure vessel code; and ASTM; vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT,

MT, RT, and UT. Personnel to be used for this Service must be listed as either SCWI, CWI or CAWI, as required for the assigned work scope, with the applicable licenses or certifications provided.

EXHIBIT B
COMPENSATION RATES
Fee Schedule for Basic Routine Services

Basic Personnel, Test, Equipment & Standard Items:

MINIMUM CALL OUT RATE	RATES
2 Hr.	Group 3 only - \$116
4 hr.	Group 3 only - \$116
EQUIPMENT	
Truck	
Daily Rate	\$ 55.00
Hourly	\$ 20.00
Mileage Charge	\$ 0.58
PERSONNEL	
Principal	\$ 185.00
Sr. Engineer	\$ 160.00
Staff Geologist	\$ 135.00
(Prevailing Wages Apply To the Following)	
Technician 1- Soil/ Concrete	\$ 100.00
Technician 2- PW Inspector/ Batch Plant/Special Inspector	\$ 110.00
Technician 3- Non Destructive Testing	\$ 120.00
TEST	
4" Curb- Max Density	\$ 185.00
6" Curb- Max Density	\$ 210.00
SOIL	
Sand Equivalent	\$ 115.00
Sieve Analysis	\$ 110.00
Passing 200 Wash	\$ 80.00
Sieve With Hydrometer Analysis	\$ 185.00
R Value:	\$ 310.00
E.I. - Expansion Index	\$ 160.00
SLURRY SEAL	
Wet Track Abrasion Test	\$ 150.00
ASPHALT	
LTMD- Bulk Max Density 308	\$ 210.00
Theoretical Max Specific Gravity 309	\$ 150.00

Agreement No. A-8078

Extraction & Gradation	\$ 200.00
Stable Meter S Value	\$ 150.00
Ignition Oven Value	\$ 175.00
Core Density Test	\$ 48.00
CONCRETE	
Concrete Compression Test-	
4" x 8"	\$ 22.00
6" x 12"	\$ 25.00
cylinder pick-up	\$ 12.50
MASONRY	
Compression Strength Grout	\$ 30.00
Compression Strength Mortar	\$ 30.00
Compression Strength Prism	\$ 160.00

EXHIBIT C: PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the Project defined in the Agreement between Contractor and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.
3. Contractor is required to post job site notices, as prescribed by regulation. See Labor Code section 1771.4(a)(2).
4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Contractor may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Contractor must immediately notify City.
8. Contractor is not qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.
9. Contractor acknowledges that 8 hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.
10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Contractor shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, Contractor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Contractor under this Section shall survive Agreement termination.

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-8078
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.

5/18

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 \$1,000,000 LIMIT 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. A-8078

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

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
Telephone:		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
NAMED INSURED		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE		OTHER PROVISIONS	
☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER			
LIMIT OF LIABILITY		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____	
\$ _____ per accident, for bodily injury and property damage.			
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-8078 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-8079

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this 1st day of July, 2018, by and between the City of Oxnard, a municipal corporation (“**City**”), and Leighton Consulting, 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 for General On-Call Geotechnical Soils and Material Testing and Laboratory Services and Inspection Services, as per Exhibit A attached hereto and incorporated by this reference in full herein (the “**Services**”). The City will request and assign work scopes as such work becomes available and each of these assignments are incorporated in full herein. 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 agrees to 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. Consultant agrees that performing such services will not materially interfere with the Services to be performed for the City.

5. Coordination of Services

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this 1st day of July, 2018, by and between the City of Oxnard, a municipal corporation (“**City**”), and Leighton Consulting, Inc., (“**Consultant**”). City and Consultant are sometimes individually referred to as “**Party**” and collectively as “**Parties**.”

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5. Coordination of Services

The Services shall be coordinated with the City Engineer (“**Manager**”), subject to the direction of the City Manager or Department Manager.

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 agrees to 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 pursuant to a schedule provided by the Consultant and approved by the City for each of the assignments. 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, Gareth Mills 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 project requirements.

12. Term of Agreement

This Agreement shall begin on, July 1, 2018, and expire on June 30, 2021.

13. Termination

a. This Agreement may be terminated by City with or without cause 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. City agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated by Consultant with or without cause and at no cost to the Consultant if Consultant notifies Manager, in writing, of Consultant'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 and only if all assignments accepted by Consultant have been completed prior to the date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$250,000 for the Services at rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein. Non-basic services will be paid at an agreed upon task order quote amount after approval by Manager.

b. In accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work." The Consultant shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director, and are available to any interested party upon request. The Consultant shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Consultant shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit C** and incorporated herein by this reference

c. 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.

d. Consultant agrees that 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.

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

f. 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.

b. Consultant agrees to maintain current monthly records, books, documents, 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.

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.

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

18. Records

a. Consultant agrees that 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

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to 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.

20. 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.

21. Hold Harmless, Indemnity and Defense

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying services:

(1) Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, its City Council, each member thereof, and its directors, officers, and employees (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 misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, allegations, damages, penalties, fines, and judgments; 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**").

(2) 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 Indemnified Party 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 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.

b. If Consultant does not provide any architectural, landscape architectural, engineering or land surveying services as the Services in this Agreement:

(1) To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless the Indemnified Party from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant's performance of this Agreement or Consultant's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all Claims. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(2) 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 Indemnified Party immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. 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 liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

c. For services under both 21a and 21b, 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.

22. Insurance

a. 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.

b. 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**.

c. 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.

23. 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.

24. Consultant Not Agent

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.

25. Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a **"governmental decision"** as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement.

26. Assignability of Agreement

Consultant agrees that 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.

27. Successors and Assigns

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

28. Fair Employment Practices

a. Consultant agrees that 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. Consultant agrees that, 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 agrees to 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Compliance with Laws

Consultant agrees to comply with all City, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

34. 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.

35. 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.

36. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. 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.

38. 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.

39. 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.

40. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to Leighton Consulting, Inc., 56 East Main Street, Suite 207, Ventura, Ca 93001 , Attention: Gareth Mills.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Public Works Department, 305 W Third Street, 3rd Floor, Oxnard, California 93030, Attention: Robert Hearne.

41. 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.

42. 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.

[Signatures on next page]

Agreement No. A-8079

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

CITY OF OXNARD

LEIGHTON CONSULTING, INC.

☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____
☒ ~~Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00)~~
☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00)

Thomas C. Benson, Jr., PE, GE _____ Date _____
 President and CEO

ATTEST:

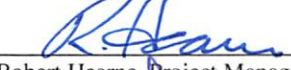
Terry Brennon _____ Date _____
 CFO

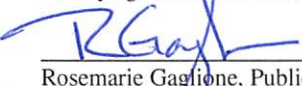
Michelle Ascencion, City Clerk _____ Date _____
 (if agreement is \$250,000.01 or more)

APPROVED AS TO FORM:

 _____ 7/31/18 _____ Date _____
 Stephen M. Fischer, City Attorney
 (required for any agreement amount)

APPROVED AS TO CONTENT:

 _____ 5-30-18 _____ Date _____
 Robert Hearne, Project Manager (required for any agreement amount)

 _____ 5-30-18 _____ Date _____
 Rosemarie Gaglione, Public Works Director (required if agreement is \$25,000.01 or more)

APPROVED AS TO AMOUNT:

~~Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more)~~ _____ Date _____

~~Jesus Nava, Assistant City Manager~~ _____ Date _____

APPROVED AS TO INSURANCE:

Mike More, Risk Manager (required for any agreement amount) _____ Date _____

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

Agreement No. A-8079

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

CITY OF OXNARD

LEIGHTON CONSULTING, INC.

☐ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____

☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00) _____

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00) _____

 _____ Date 8/16/2018

Thomas C. Benson, Jr., PE, GE
President and CEO

 _____ Date 8.20.2018

Terry Brennon
CFO

ATTEST:

Michelle Ascencion, City Clerk
(if agreement is \$250,000.01 or more) _____ Date _____

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney
(required for any agreement amount) _____ Date _____

APPROVED AS TO CONTENT:

Robert Hearne, Project Manager (required for any agreement amount) _____ Date _____

Rosemarie Gaglione, Public Works Director (required if agreement is \$25,000.01 or more) _____ Date _____

APPROVED AS TO AMOUNT:

Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more) _____ Date _____

Jesus Nava, Assistant City Manager _____ Date _____

APPROVED AS TO INSURANCE:

Mike More, Risk Manager (required for any agreement amount) _____ Date _____

The City requires the following for any contract:

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- For an LLC, the signatures of at least two managers of the LLC; 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.

PLEASE DO NOT
REMOVE THIS BOX

**EXHIBIT A
ON-CALL SERVICES
SOILS & MATERIAL TESTING & INSPECTION SERVICES
SCOPE OF SERVICES**

SCOPE OF SERVICES

Using the hourly fee rate amount and from that rate, a lump sum amount for the entire duration of each project/task order, which will include but not limited to the following services:

- a. Testing services as assigned for complete projects/tasks, before construction, during construction, and post construction. Assist the City in obtaining any required permits related to this Service.
- b. Inspection services, including but not limited to, specialty construction, deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for complete project/tasks.
- c. Obtain approval of any required permits, City, County, and State for this service.
- d. Provide quality control.
- e. Provide cost estimates for all related services to perform project/task order.
- f. Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- g. Review and assist in answering any RFI (request for information) that may be related to such samples and testing and inspection services.
- h. Maintain good record keeping.
- i. Provide a schedule of each tasks, overall schedule, and reporting process.
- j. Keep communication as required with City staff and consultants.
- k. Other related duties as required by City staff related to these services.

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and where required, certified and/or licensed personnel to accomplish these services on an on-call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement.

Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to, SMAW, GTAW and GMAW (mig/tig), FCAW, PAC, SAW, OSW, LBW, ESW, Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards AWS, ASME, AISI, ANSI, API 1104, B31.1, AWS D1.1, ASME IX, V, VIII, and II A,B,C,E; Boiler and pressure vessel code; and ASTM; vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE

methods, PT, MT, RT, and UT. Personnel to be used for this Service must be listed as either SCWI, CWI or CAWI, as required for the assigned work scope, with the applicable licenses or certifications

EXHIBIT B
COMPENSATION RATES
Fee Schedule for Basic Routine Services

Basic Personnel, Test, Equipment & Standard Items:

MINIMUM CALL OUT RATE	RATES
2 Hr.	Group 3 only - \$116
4 hr.	Group 3 only - \$116
EQUIPMENT	
Truck	
Daily Rate	\$ 55.00
Hourly	\$ 20.00
Mileage Charge	\$ 0.58
PERSONNEL	
Principal	\$ 185.00
Sr. Engineer	\$ 160.00
Staff Geologist	\$ 135.00
(Prevailing Wages Apply To the Following)	
Technician 1- Soil/ Concrete	\$ 100.00
Technician 2- PW Inspector/ Batch Plant/Special Inspector	\$ 110.00
Technician 3- Non Destructive Testing	\$ 120.00
TEST	
4" Curb- Max Density	\$ 185.00
6" Curb- Max Density	\$ 210.00
SOIL	
Sand Equivalent	\$ 115.00
Sieve Analysis	\$ 110.00
Passing 200 Wash	\$ 80.00
Sieve With Hydrometer Analysis	\$ 185.00
R Value:	\$ 310.00
E.I. - Expansion Index	\$ 160.00
SLURRY SEAL	
Wet Track Abrasion Test	\$ 150.00
ASPHALT	
LTMD- Bulk Max Density 308	\$ 210.00
Theoretical Max Specific Gravity 309	\$ 150.00

Agreement No. A-8079

Extraction & Gradation	\$ 200.00
Stable Meter S Value	\$ 150.00
Ignition Oven Value	\$ 175.00
Core Density Test	\$ 48.00
CONCRETE	
Concrete Compression Test-	
4" x 8"	\$ 22.00
6" x 12"	\$ 25.00
cylinder pick-up	\$ 12.50
MASONRY	
Compression Strength Grout	\$ 30.00
Compression Strength Mortar	\$ 30.00
Compression Strength Prism	\$ 160.00

EXHIBIT C: PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the Project defined in the Agreement between Contractor and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.
3. Contractor is required to post job site notices, as prescribed by regulation. See Labor Code section 1771.4(a)(2).
4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Contractor may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Contractor must immediately notify City.
8. Contractor is not qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.
9. Contractor acknowledges that 8 hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.
10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Contractor shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, Contractor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Contractor under this Section shall survive Agreement termination.

Agreement No. A-8079

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-8079
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.

5/18

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 \$1,000,000 LIMIT 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. A-8079

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

Packet Pq. 119

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
Telephone:		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
NAMED INSURED		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE		OTHER PROVISIONS	
☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER			
LIMIT OF LIABILITY		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____	
\$ _____ per accident, for bodily injury and property damage.			
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		AUTHORIZED REPRESENTATIVE	
CITY OF OXNARD Attn: Insurance Compliance Reference No A-8079 P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____	

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this 1st day of July, 2018, by and between the City of Oxnard, a municipal corporation (“**City**”), and NV5 West, 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 for General On-Call Geotechnical Soils and Material Testing and Laboratory Services and Inspection Services, as per **Exhibit A** attached hereto and incorporated by this reference in full herein (the “**Services**”). The City will request and assign work scopes as such work becomes available and each of these assignments are incorporated in full herein. 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 agrees to 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. Consultant agrees that 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 the City Engineer (“**Manager**”), subject to the direction of the City Manager or Department Manager.

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 agrees to 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 pursuant to a schedule provided by the Consultant and approved by the City for each of the assignments. 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, Scott Moors 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 project requirements.

12. Term of Agreement

This Agreement shall begin on, July 1, 2018, and expire on June 30, 2021.

13. Termination

a. This Agreement may be terminated by City with or without cause 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. City agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated by Consultant with or without cause and at no cost to the Consultant if Consultant notifies Manager, in writing, of Consultant'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 and only if all assignments accepted by Consultant have been completed prior to the date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$250,000 for the Services at rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein. Non-basic services will be paid at an agreed upon task order quote amount after approval by Manager.

b. In accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work." The Consultant shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director, and are available to any interested party upon request. The Consultant shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Consultant shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit C** and incorporated herein by this reference

c. 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.

d. Consultant agrees that 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.

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

f. 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.

b. Consultant agrees to maintain current monthly records, books, documents, 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.

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.

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

18. Records

a. Consultant agrees that 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

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to 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.

20. 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.

21. Hold Harmless, Indemnity and Defense

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying services:

(1) Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, its City Council, each member thereof, and its directors, officers, and employees (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 misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, allegations, damages, penalties, fines, and judgments; 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"**).

(2) 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 Indemnified Party 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 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.

b. If Consultant does not provide any architectural, landscape architectural, engineering or land surveying services as the Services in this Agreement:

(1) To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless the Indemnified Party from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant's performance of this Agreement or Consultant's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all Claims. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(2) 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 Indemnified Party immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. 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 liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

c. For services under both 21a and 21b, 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.

22. Insurance

a. 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.

b. 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**.

c. 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.

23. 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.

24. Consultant Not Agent

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.

25. Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a **"governmental decision"** as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement.

26. Assignability of Agreement

Consultant agrees that 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.

27. Successors and Assigns

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

28. Fair Employment Practices

a. Consultant agrees that 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. Consultant agrees that, 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 agrees to 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Compliance with Laws

Consultant agrees to comply with all City, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

34. 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.

35. 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.

36. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. Arbitration

Agreement No. A-8080

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.

38. 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.

39. 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.

40. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to NV5 West, Inc., 1868 Palma Drive, Suite A, Ventura, CA 93003 , Attention: Scott Moors.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Public Works Department, 305 W Third Street, 3rd Floor, Oxnard, California 93030, Attention: Robert Hearne.

41. 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.

42. 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.

[Signatures on next page]

Agreement No. A-8080

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

CITY OF OXNARD

NV5 West, Inc.

☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more)

Date

D. Scott Moors, PG, CEG, CHg
President

Date

☒ ~~Scott Whitney, Interim City Manager~~ (if agreement is \$25,000.01-\$250,000.00)

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00)

MaryJo O'Brien
Secretary

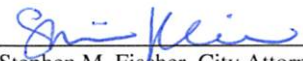
Date

ATTEST:

Michelle Ascencion, City Clerk
(if agreement is \$250,000.01 or more)

Date

APPROVED AS TO FORM:

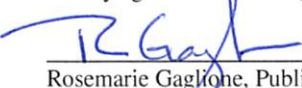

Stephen M. Fischer, City Attorney
(required for any agreement amount)

7/31/18
Date

APPROVED AS TO CONTENT:


Robert Hearne, Project Manager (required
for any agreement amount)

5-30-18
Date


Rosemarie Gaglione, Public Works
Director (required if agreement is \$25,000.01 or more)

5-30-18
Date

APPROVED AS TO AMOUNT:


~~Scott Whitney, Interim City Manager (if
agreement is \$250,000.01 or more)~~

Date


~~Jesus Nava, Assistant City Manager~~

Date

APPROVED AS TO INSURANCE:


Mike More, Risk Manager (required
for any agreement amount)

Date

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

Agreement No. A-8080

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

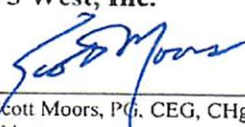
CITY OF OXNARD

NV5 West, Inc.

☐ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____

☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00) _____

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00) _____


D. Scott Moors, P.E., CEG, CHG
President

8/29/2018
Date


MaryJo O'Brien
Secretary

8/29/18
Date

ATTEST:

Michelle Ascencion, City Clerk _____ Date _____
(if agreement is \$250,000.01 or more)

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney _____ Date _____
(required for any agreement amount)

APPROVED AS TO CONTENT:

Robert Hearne, Project Manager (required for any agreement amount) _____ Date _____

Rosemarie Gaglione, Public Works Director (required if agreement is \$25,000.01 or more) _____ Date _____

APPROVED AS TO AMOUNT:

Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more) _____ Date _____

Jesus Nava, Assistant City Manager _____ Date _____

APPROVED AS TO INSURANCE:

Mike More, Risk Manager (required for any agreement amount) _____ Date _____

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

**EXHIBIT A
ON-CALL SERVICES
SOILS & MATERIAL TESTING & INSPECTION SERVICES
SCOPE OF SERVICES**

SCOPE OF SERVICES

Using the hourly fee rate amount and from that rate, a lump sum amount for the entire duration of each project/task order, which will include but not limited to the following services:

- a. Testing services as assigned for complete projects/tasks, before construction, during construction, and post construction. Assist the City in obtaining any required permits related to this Service.
- b. Inspection services, including but not limited to, specialty construction, deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for complete project/tasks.
- c. Obtain approval of any required permits, City, County, and State for this service.
- d. Provide quality control.
- e. Provide cost estimates for all related services to perform project/task order.
- f. Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- g. Review and assist in answering any RFI (request for information) that may be related to such samples and testing and inspection services.
- h. Maintain good record keeping.
- i. Provide a schedule of each tasks, overall schedule, and reporting process.
- j. Keep communication as required with City staff and consultants.
- k. Other related duties as required by City staff related to these services.

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and where required, certified and/or licensed personnel to accomplish these services on an on-call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement.

Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to, SMAW, GTAW and GMAW (mig/tig), FCAW, PAC, SAW, OSW, LBW, ESW, Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards AWS, ASME, AISI, ANSI, API 1104, B31.1, AWS D1.1, ASME IX, V, VIII, and II A,B,C,E; Boiler and pressure vessel code; and ASTM; vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT,

Agreement No. A-8080

MT.RT, and UT. Personnel to be used for this Service must be listed as either SCWI, CWI or CAWI, as required for the assigned work scope, with the applicable licenses or certifications provided.

EXHIBIT B
COMPENSATION RATES
Fee Schedule for Basic Routine Services

Basic Personnel, Test, Equipment & Standard Items:

MINIMUM CALL OUT RATE	RATES
2 Hr.	Group 3 only - \$116
4 hr.	Group 3 only - \$116
EQUIPMENT	
Truck	
Daily Rate	\$ 55.00
Hourly	\$ 20.00
Mileage Charge	\$ 0.58
PERSONNEL	
Principal	\$ 185.00
Sr. Engineer	\$ 160.00
Staff Geologist	\$ 135.00
(Prevailing Wages Apply To the Following)	
Technician 1- Soil/ Concrete	\$ 100.00
Technician 2- PW Inspector/ Batch Plant/Special Inspector	\$ 110.00
Technician 3- Non Destructive Testing	\$ 120.00
TEST	
4" Curb- Max Density	\$ 185.00
6" Curb- Max Density	\$ 210.00
SOIL	
Sand Equivalent	\$ 115.00
Sieve Analysis	\$ 110.00
Passing 200 Wash	\$ 80.00
Sieve With Hydrometer Analysis	\$ 185.00
R Value:	\$ 310.00
E.I. - Expansion Index	\$ 160.00
SLURRY SEAL	
Wet Track Abrasion Test	\$ 150.00
ASPHALT	
LTMD- Bulk Max Density 308	\$ 210.00
Theoretical Max Specific Gravity 309	\$ 150.00

Agreement No. A-8080

Extraction & Gradation	\$ 200.00
Stable Meter S Value	\$ 150.00
Ignition Oven Value	\$ 175.00
Core Density Test	\$ 48.00
CONCRETE	
Concrete Compression Test-	
4" x 8"	\$ 22.00
6" x 12"	\$ 25.00
cylinder pick-up	\$ 12.50
MASONRY	
Compression Strength Grout	\$ 30.00
Compression Strength Mortar	\$ 30.00
Compression Strength Prism	\$ 160.00

Agreement No. A-8080

EXHIBIT C: PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the Project defined in the Agreement between Contractor and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.
3. Contractor is required to post job site notices, as prescribed by regulation. See Labor Code section 1771.4(a)(2).
4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Contractor may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Contractor must immediately notify City.
8. Contractor is not qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.
9. Contractor acknowledges that 8 hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.
10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Contractor shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, Contractor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Contractor under this Section shall survive Agreement termination.

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-8080
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.

5/18

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 \$1,000,000 LIMIT 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. A-8080

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

Packet Pg. 142

[illegible]

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this 1st day of July, 2018, by and between the City of Oxnard, a municipal corporation (“**City**”), and Earth Systems Pacific (“**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 for General On-Call Geotechnical Soils and Material Testing and Laboratory Services and Inspection Services, as per **Exhibit A** attached hereto and incorporated by this reference in full herein (the “**Services**”). The City will request and assign work scopes as such work becomes available and each of these assignments are incorporated in full herein. 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 agrees to 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. Consultant agrees that performing such services will not materially interfere with the Services to be performed for the City.

5. Coordination of Services

Agreement No. A-8081

The Services shall be coordinated with the City Engineer (“**Manager**”), subject to the direction of the City Manager or Department Manager.

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 agrees to 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 pursuant to a schedule provided by the Consultant and approved by the City for each of the assignments. 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, Patrick Boales 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 project requirements.

12. Term of Agreement

This Agreement shall begin on, July 1, 2018, and expire on June 30, 2021.

13. Termination

a. This Agreement may be terminated by City with or without cause and at no cost to the City if Manager notifies Consultant, in writing, of Manager’s desire to terminate the

Agreement No. A-8081

Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice. City agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated by Consultant with or without cause and at no cost to the Consultant if Consultant notifies Manager, in writing, of Consultant'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 and only if all assignments accepted by Consultant have been completed prior to the date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$250,000 for the Services at rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein. Non-basic services will be paid at an agreed upon task order quote amount after approval by Manager.

b. In accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work." The Consultant shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director, and are available to any interested party upon request. The Consultant shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Consultant shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit C** and incorporated herein by this reference

c. 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.

d. Consultant agrees that 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.

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

f. 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.

b. Consultant agrees to maintain current monthly records, books, documents, 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.

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.

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

18. Records

a. Consultant agrees that 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.

Agreement No. A-8081

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

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to 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.

20. 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.

21. Hold Harmless, Indemnity and Defense

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying services:

(1) Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, its City Council, each member thereof, and its directors, officers, and employees (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 misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, allegations, damages, penalties, fines, and judgments; 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"**).

(2) 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 Indemnified Party 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

Agreement No. A-8081

Consultant 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.

b. If Consultant does not provide any architectural, landscape architectural, engineering or land surveying services as the Services in this Agreement:

(1) To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless the Indemnified Party from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant's performance of this Agreement or Consultant's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all Claims. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(2) 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 Indemnified Party immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. 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 liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

c. For services under both 21a and 21b, 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.

22. Insurance

a. 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

Agreement No. A-8081

waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages.

b. 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**.

c. 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.

23. 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.

24. Consultant Not Agent

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.

25. Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a **"governmental decision"** as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement.

Agreement No. A-8081**26. Assignability of Agreement**

Consultant agrees that 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.

27. Successors and Assigns

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

28. Fair Employment Practices

a. Consultant agrees that 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. Consultant agrees that, 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 agrees to 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Compliance with Laws

Consultant agrees to comply with all City, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

34. 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.

35. 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.

36. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. Arbitration

Agreement No. A-8081

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.

38. 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.

39. 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.

40. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to Earth Systems Pacific, 1731 A Walter Street, Ventura, CA 93003 , Attention: Patrick Boales.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Public Works Department, 305 W Third Street, 3rd Floor, Oxnard, California 93030, Attention: Robert Hearne.

41. 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.

42. 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.

[Signatures on next page]

Agreement No. A-8081

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

CITY OF OXNARD**EARTH SYSTEMS PACIFIC**

☐ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____

☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00) _____

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00) _____

Patrick Boales _____ Date _____

President

ATTEST:

Jerol Brown _____ Date _____

CFO

Michelle Ascencion, City Clerk _____ Date _____

(if agreement is \$250,000.01 or more)

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney _____ Date _____

(required for any agreement amount)

APPROVED AS TO CONTENT:

Robert Hearne, Project Manager (required for any agreement amount) _____ Date _____

Rosemarie Gaglione, Public Works Director (required if agreement is \$25,000.01 or more) _____ Date _____

APPROVED AS TO AMOUNT:

Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more) _____ Date _____

Jesus Nava, Assistant City Manager _____ Date _____

APPROVED AS TO INSURANCE:

Mike More, Risk Manager (required for any agreement amount) _____ Date _____

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

EXHIBIT A
ON-CALL SERVICES
SOILS & MATERIAL TESTING & INSPECTION SERVICES
SCOPE OF SERVICES

SCOPE OF SERVICES

Using the hourly fee rate amount and from that rate, a lump sum amount for the entire duration of each project/task order, which will include but not limited to the following services:

- a. Testing services as assigned for complete projects/tasks, before construction, during construction, and post construction. Assist the City in obtaining any required permits related to this Service.
- b. Inspection services, including but not limited to, specialty construction, deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for complete project/tasks.
- c. Obtain approval of any required permits, City, County, and State for this service.
- d. Provide quality control.
- e. Provide cost estimates for all related services to perform project/task order.
- f. Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- g. Review and assist in answering any RFI (request for information) that may be related to such samples and testing and inspection services.
- h. Maintain good record keeping.
- i. Provide a schedule of each tasks, overall schedule, and reporting process.
- j. Keep communication as required with City staff and consultants.
- k. Other related duties as required by City staff related to these services.

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and where required, certified and/or licensed personnel to accomplish these services on an on-call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement.

Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to, SMAW, GTAW and GMAW (mig/tig), FCAW, PAC, SAW, OSW, LBW, ESW, Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards AWS, ASME, AISI, ANSI, API 1104,B31.1, AWS D1.1, ASME IX, V, VIII, and II A,B,C,E; Boiler and pressure vessel code; and ASTM; vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT,

Agreement No. A-8081

MT.RT, and UT. Personnel to be used for this Service must be listed as either SCWI, CWI or CAWI, as required for the assigned work scope, with the applicable licenses or certifications provided.

EXHIBIT B
COMPENSATION RATES
Fee Schedule for Basic Routine Services

Basic Personnel, Test, Equipment & Standard Items:

MINIMUM CALL OUT RATE	RATES
2 Hr.	Group 3 only - \$116
4 hr.	Group 3 only - \$116
EQUIPMENT	
Truck	
Daily Rate	\$ 55.00
Hourly	\$ 20.00
Mileage Charge	\$ 0.58
PERSONNEL	
Principal	\$ 185.00
Sr. Engineer	\$ 160.00
Staff Geologist	\$ 135.00
(Prevailing Wages Apply To the Following)	
Technician 1- Soil/ Concrete	\$ 100.00
Technician 2- PW Inspector/ Batch Plant/Special Inspector	\$ 110.00
Technician 3- Non Destructive Testing	\$ 120.00
TEST	
4" Curb- Max Density	\$ 185.00
6" Curb- Max Density	\$ 210.00
SOIL	
Sand Equivalent	\$ 115.00
Sieve Analysis	\$ 110.00
Passing 200 Wash	\$ 80.00
Sieve With Hydrometer Analysis	\$ 185.00
R Value:	\$ 310.00
E.I. - Expansion Index	\$ 160.00
SLURRY SEAL	
Wet Track Abrasion Test	\$ 150.00
ASPHALT	
LTMD- Bulk Max Density 308	\$ 210.00
Theoretical Max Specific Gravity 309	\$ 150.00

Agreement No. A-8081

Extraction & Gradation	\$ 200.00
Stable Meter S Value	\$ 150.00
Ignition Oven Value	\$ 175.00
Core Density Test	\$ 48.00
CONCRETE	
Concrete Compression Test-	
4" x 8"	\$ 22.00
6" x 12"	\$ 25.00
cylinder pick-up	\$ 12.50
MASONRY	
Compression Strength Grout	\$ 30.00
Compression Strength Mortar	\$ 30.00
Compression Strength Prism	\$ 160.00

Agreement No. A-8081

EXHIBIT C: PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the Project defined in the Agreement between Contractor and City is a “public work” as defined in Division 2, Part 7, Chapter 1 of the California Labor Code (“Chapter 1”), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations (“DIR”) implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR’s rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.
3. Contractor is required to post job site notices, as prescribed by regulation. See Labor Code section 1771.4(a)(2).
4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR’s determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Contractor may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Contractor must immediately notify City.
8. Contractor is not qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.
9. Contractor acknowledges that 8 hours labor constitutes a legal day’s work. Contractor shall comply with and be bound by Labor Code Section 1810.
10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor’s employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Contractor shall be responsible for each and every one of its subcontractors’ compliance with Chapter 1, the DIR’s rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors’ compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, Contractor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys’ fees and other related costs. All duties of Contractor under this Section shall survive Agreement termination.

Agreement No. A-8081

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-8081
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.

8/18

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 \$1,000,000 LIMIT 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. A-8081****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

Agreement No. A-8081

[illegible]

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE ENDORSEMENT NO. ISSUE DATE (MM/DD/YY)	
PRODUCER Telephone:		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
NAMED INSURED		☐ 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-8081 P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () Date Signed _____	

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this 1st day of July, 2018, by and between the City of Oxnard, a municipal corporation (“**City**”), and Twining, 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 for General On-Call Geotechnical Soils and Material Testing and Laboratory Services and Inspection Services, as per **Exhibit A** attached hereto and incorporated by this reference in full herein (the “**Services**”). The City will request and assign work scopes as such work becomes available and each of these assignments are incorporated in full herein. 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 agrees to 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. Consultant agrees that 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 the City Engineer (“**Manager**”), subject to the direction of the City Manager or Department Manager.

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 agrees to 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 pursuant to a schedule provided by the Consultant and approved by the City for each of the assignments. 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, Jeff Tawakoli, PE 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 project requirements.

12. Term of Agreement

This Agreement shall begin on, July 1, 2018, and expire on June 30, 2021.

13. Termination

a. This Agreement may be terminated by City with or without cause 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. City agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated by Consultant with or without cause and at no cost to the Consultant if Consultant notifies Manager, in writing, of Consultant'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 and only if all assignments accepted by Consultant have been completed prior to the date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$250,000 for the Services at rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein. Non-basic services will be paid at an agreed upon task order quote amount after approval by Manager.

b. In accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work." The Consultant shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director, and are available to any interested party upon request. The Consultant shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Consultant shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit C** and incorporated herein by this reference

c. 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.

d. Consultant agrees that 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.

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

f. 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.

b. Consultant agrees to maintain current monthly records, books, documents, 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.

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.

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

18. Records

a. Consultant agrees that 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

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to 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.

20. 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.

21. Hold Harmless, Indemnity and Defense

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying services:

(1) Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, its City Council, each member thereof, and its directors, officers, and employees (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 misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, allegations, damages, penalties, fines, and judgments; 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"**).

(2) 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 Indemnified Party 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 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.

b. If Consultant does not provide any architectural, landscape architectural, engineering or land surveying services as the Services in this Agreement:

(1) To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless the Indemnified Party from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant's performance of this Agreement or Consultant's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all Claims. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(2) 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 Indemnified Party immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. 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 liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

c. For services under both 21a and 21b, 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.

22. Insurance

a. 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.

b. 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**.

c. 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.

23. 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.

24. Consultant Not Agent

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.

25. Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a **"governmental decision"** as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement.

26. Assignability of Agreement

Consultant agrees that 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.

27. Successors and Assigns

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

28. Fair Employment Practices

a. Consultant agrees that 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. Consultant agrees that, 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 agrees to 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Compliance with Laws

Consultant agrees to comply with all City, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

34. 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.

35. 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.

36. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. 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.

38. 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.

39. 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.

40. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to Twining, Inc., 1879 Portola Road, Suite G, Ventura, CA 93003, Attention: Jeff Tawakoli, PE.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Public Works Department, 305 W Third Street, 3rd Floor, Oxnard, California 93030, Attention: Robert Hearne.

41. 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.

42. 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.

[Signatures on next page]

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

CITY OF OXNARD

TWINING, INC.

☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more)

Date

Robert Ryan, CEO

Date

☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00)

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00)

Amy Owens, Secretary

Date

ATTEST:

Michelle Ascencion, City Clerk
(if agreement is \$250,000.01 or more)

Date

APPROVED AS TO FORM:



Stephen M. Fischer, City Attorney
(required for any agreement amount)

7/31/18

Date

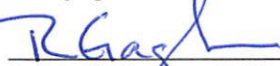
APPROVED AS TO CONTENT:



Robert Hearne, Project Manager (required
for any agreement amount)

5-30-18

Date



Rosemarie Gaglione, Public Works
Director (required if agreement is \$25,000.01 or more)

5-30-18

Date

APPROVED AS TO AMOUNT:

~~Scott Whitney, Interim City Manager (if
agreement is \$250,000.01 or more)~~

Date

NA

Jesus Nava, Assistant City Manager

Date

APPROVED AS TO INSURANCE:



Mike More, Risk Manager (required
for any agreement amount)

Date

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; 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.

PLEASE DO NOT
REMOVE THIS BOX

Agreement No. 8256-18-PW

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

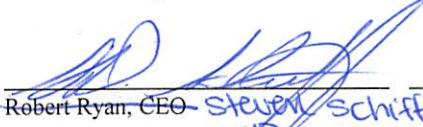
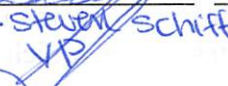
CITY OF OXNARD

TWINING, INC.

☐ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) _____ Date _____

☒ Scott Whitney, Interim City Manager (if agreement is \$25,000.01-\$250,000.00) _____

☐ Lisa Boerner, Purchasing Agent (if agreement is up to \$25,000.00) _____

 Robert Ryan, CEO 8-24-18 Date
 Steven Schiffer, VP
 Amy Owens, Secretary 8-28-18 Date

ATTEST:

 Michelle Ascencion, City Clerk
 (if agreement is \$250,000.01 or more) _____ Date _____

APPROVED AS TO FORM:

 Stephen M. Fischer, City Attorney
 (required for any agreement amount) _____ Date _____

APPROVED AS TO CONTENT:

 Robert Hearne, Project Manager (required for any agreement amount) _____ Date _____

 Rosemarie Gaglione, Public Works Director
 (required if agreement is \$25,000.01 or more) _____ Date _____

APPROVED AS TO AMOUNT:

 Scott Whitney, Interim City Manager (if agreement is \$250,000.01 or more) _____ Date _____

 Jesus Nava, Assistant City Manager _____ Date _____

APPROVED AS TO INSURANCE:

 Mike More, Risk Manager (required for any agreement amount) _____ Date _____

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EXHIBIT A
ON-CALL SERVICES
SOILS & MATERIAL TESTING & INSPECTION SERVICES
SCOPE OF SERVICES

SCOPE OF SERVICES

Using the hourly fee rate amount and from that rate, a lump sum amount for the entire duration of each project/task order, which will include but not limited to the following services:

- a. Testing services as assigned for complete projects/tasks, before construction, during construction, and post construction. Assist the City in obtaining any required permits related to this Service.
- b. Inspection services, including but not limited to, specialty construction, deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for complete project/tasks.
- c. Obtain approval of any required permits, City, County, and State for this service.
- d. Provide quality control.
- e. Provide cost estimates for all related services to perform project/task order.
- f. Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- g. Review and assist in answering any RFI (request for information) that may be related to such samples and testing and inspection services.
- h. Maintain good record keeping.
- i. Provide a schedule of each tasks, overall schedule, and reporting process.
- j. Keep communication as required with City staff and consultants.
- k. Other related duties as required by City staff related to these services.

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and where required, certified and/or licensed personnel to accomplish these services on an on-call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement.

Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to, SMAW, GTAW and GMAW (mig/tig), FCAW, PAC, SAW, OSW, LBW, ESW, Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards AWS, ASME, AISI, ANSI, API 1104, B31.1, AWS D1.1, ASME IX, V, VIII, and II A,B,C,E; Boiler and pressure vessel code; and ASTM; vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT,

**EXHIBIT A
ON-CALL SERVICES
SOILS & MATERIAL TESTING & INSPECTION SERVICES
SCOPE OF SERVICES**

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- e. Provide cost estimates for all related services to perform project/task order.
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MT.RT, and UT. Personnel to be used for this Service must be listed as either SCWI, CWI or CAWI, as required for the assigned work scope, with the applicable licenses or certifications provided.

EXHIBIT B
COMPENSATION RATES
Fee Schedule for Basic Routine Services

Basic Personnel, Test, Equipment & Standard Items:

MINIMUM CALL OUT RATE	RATES
2 Hr.	Group 3 only - \$116
4 hr.	Group 3 only - \$116
EQUIPMENT	
Truck	
Daily Rate	\$ 55.00
Hourly	\$ 20.00
Mileage Charge	\$ 0.58
PERSONNEL	
Principal	\$ 185.00
Sr. Engineer	\$ 160.00
Staff Geologist	\$ 135.00
(Prevailing Wages Apply To the Following)	
Technician 1- Soil/ Concrete	\$ 100.00
Technician 2- PW Inspector/ Batch Plant/Special Inspector	\$ 110.00
Technician 3- Non Destructive Testing	\$ 120.00
TEST	
4" Curb- Max Density	\$ 185.00
6" Curb- Max Density	\$ 210.00
SOIL	
Sand Equivalent	\$ 115.00
Sieve Analysis	\$ 110.00
Passing 200 Wash	\$ 80.00
Sieve With Hydrometer Analysis	\$ 185.00
R Value:	\$ 310.00
E.I. - Expansion Index	\$ 160.00
SLURRY SEAL	
Wet Track Abrasion Test	\$ 150.00
ASPHALT	
LTMD- Bulk Max Density 308	\$ 210.00
Theoretical Max Specific Gravity 309	\$ 150.00

Extraction & Gradation	\$ 200.00
Stable Meter S Value	\$ 150.00
Ignition Oven Value	\$ 175.00
Core Density Test	\$ 48.00
CONCRETE	
Concrete Compression Test-	
4" x 8"	\$ 22.00
6" x 12"	\$ 25.00
cylinder pick-up	\$ 12.50
MASONRY	
Compression Strength Grout	\$ 30.00
Compression Strength Mortar	\$ 30.00
Compression Strength Prism	\$ 160.00

EXHIBIT C: PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the Project defined in the Agreement between Contractor and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.
3. Contractor is required to post job site notices, as prescribed by regulation. See Labor Code section 1771.4(a)(2).
4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Contractor may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Contractor must immediately notify City.
8. Contractor is not qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.
9. Contractor acknowledges that 8 hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.
10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Contractor shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, Contractor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Contractor under this Section shall survive Agreement termination.

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. 8256-18-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 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.

5/18

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 ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR. ☒ 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 ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT 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. 8256-18-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		

Packet Pg. 188

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			OTHER PROVISIONS				
☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER							
LIMIT OF LIABILITY			CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (_____) _____				
\$ _____ per accident, for bodily injury and property damage.							
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 No8256-18-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 _____			



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent

AGENDA ITEM NO.: 9

DATE: October 2, 2018

TO: City Council

FROM: Rosemarie Gaglione
Public Works Director

SUBJECT: Authorize Annual Purchase Order with Aqua Metric Sales Company for Water Meters and Related Parts.

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

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute a purchase order with Aqua Metric Sales Company for the annual (FY 18-19) amount of \$240,000 to purchase water meters and parts.

BACKGROUND

The Water Division operates, maintains and reads 43,000 water meters on a monthly basis. Approximately 90% of the City meters are sized ¾ inch – 2 inch which are used for residential customers. Large meters (3 inch – 10inch) are purchased less frequently and are used for commercial, industrial, irrigation and construction customers. On average, 500 to 800 meters are replaced per year. This number will continue to increase based on the City's aging water meter infrastructure. In addition, new developer projects require the purchase of additional water meters.

While some water meters are purchased as inventory, the majority of the purchases are made throughout the year. Developers who request water meters pay fees to cover the cost of the water meters and installation.

The City's water meters are manufactured by Sensus USA, Inc. Aqua Metric Sales Company continues to be the sole factory-authorized Sensus retailer in the Southern California region.

Annual PO for City Water Meters

October 2, 2018

Page 2

This is the City's standard meter brand for all water meter parts and replacements. In addition, Sensus meters have a proprietary electronic interface with the City's utility billing system. City staff has considered other manufacturers; however, only Sensus has the interface and compatibility with the existing meter transmitters used to auto read the meters.

Meter costs are shown in the table below. There has been a 3% cost increase in the meters, effective October 1, 2018.

Meter Size	Current Cost	Cost, effective 10/1/2018
3/4"	112.76	116.14
1"	160.53	165.34
1-1/2"	1263.43	1301.33
2"	1457.80	1506.53
Fire Hydrant	1,503.00	1,503.00
Read Transmitter	173.84	179.05

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

Sufficient funds are available in Water's Meter Operating Supplies (Account 601-6003-843-8121) for FY 18-19.

Prepared by Omar Castro

ATTACHMENTS:

Attachment A: Aqua Metric Purchase Order 6948



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

L.9.a

**PURCHASE
ORDER NO.
006948**

DATE: 7/16/2018

CCRC
6/28/18
REVIEWED

VENDOR PHONE: (951)637-1400

VENDOR FAX: (951)637-1500

VENDOR #: 9782

VENDOR ADDRESS: AQUA METRIC SALES COMPANY
4050 FLAT ROCK DRIVE
RIVERSIDE, CA 92505

SHIP TO: WATER DIVISION
251 S. HAYES AVENUE
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
06/30/2019		0000004025	07/06/2018	SOLE SOURCE FOR COLD WATE	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		60160038438121		MARISELA HART	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

1	WATER METERS AND PARTS	
240,000.00		1.0000 240,000.00
/ DL		

TOTAL PURCHASE AMOUNT

\$240,000.00

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, supplies 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, equipment 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 under 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, consultants 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 requirement 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 equivalent 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 under 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 due 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 Housing 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 Purchase 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.



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Public Hearing
AGENDA ITEM NO.: 1

DATE: October 2, 2018

TO: City Council

FROM: Scott Whitney
Police Chief

SUBJECT: JAG FY 18 Grant (5/5/5)

CONTACT: Scott Whitney, Police Chief
Scott.Whitney@OxnardPD.org, (805) 385-7624

RECOMMENDATION:

That City Council adopt a resolution:

1. Authorizing the City Manager to execute and submit an application for U.S. Department of Justice (DOJ) grant funds in the amount of \$106,112 from the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program's FY 2018 Local Solicitation;
2. Authorizing the City Manager to execute a Memorandum of Understanding with the Cities of San Buenaventura and Simi Valley designating the City of Oxnard as the lead agency and fiscal agent for the JAG;
3. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon notification of grant award;
4. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve administrative budget appropriation for the use of JAG funds upon award; and
5. Authorizing the Chief of Police or designee to submit all program related progress or status reports.

BACKGROUND

JAG FY 2018 Grant (5/5/5)

October 2, 2018

Page 2

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures. A recent JAG funding allocation list provided by the Bureau of Justice Assistance (BJA) announced that the combined award amounts for agencies within Ventura County totals \$106,112. Of this amount, the City of Oxnard is eligible to receive an award of \$65,153. Matching funds are not required.

BJA requires that a joint application be submitted by agencies within Ventura County. The City of Oxnard, whose award amount is 64% of the overall JAG award eligibility among Ventura County and its cities, will serve as the grant's lead agency. The lead agency will submit the application on behalf of all parties, and will receive the award and then disburse it to other grantees within Ventura County. The City of Oxnard intends to reallocate five percent (5%), or \$5,305 of the total countywide award eligibility to the City of Oxnard for costs related to administering the grant.

Of the \$106,112 in countywide JAG funding, the awards will be distributed as follows:

Agency	Agency Base Award Eligibility	5% Administration Fee	Agency Adjusted Award Amount	Oxnard Total
Oxnard City	68,582	3,429	65,153	70,458
San Buenaventura City	25,369	1,268	24,101	
Simi Valley	12,161	608	11,553	
Total	106,112	5,305	100,807	

Funds from this grant can be used to improve or enhance law enforcement programs and preserve and/or create jobs, which may include equipment/supplies, training, personnel, and/or contractual support. Grantees may utilize JAG funds for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, as well as research and evaluation activities that will improve or enhance law enforcement programs related to criminal justice. The grant's monies may not supplant or replace funds that have been appropriated for the same purpose.

The Oxnard Police Department has applied its \$65,153 share of JAG funding towards the following projects:

Electronic Citation Devices \$42,000
Community Cameras \$23,000

JAG FY 2018 Grant (5/5/5)

October 2, 2018

Page 3

The application deadline for JAG grant funding was August 22, 2018.

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 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.

FINANCIAL IMPACT

Approval of this recommendation will have no effect on the General Fund Operating Reserve. This grant does not require any matching contribution. The funding will serve to supplement public safety and will not supplant existing effort.

Prepared By: Amy Van Atta, Grants Specialist II; and Eric S. Sonstegard, Assistant Chief of Police.

ATTACHMENTS:

Attachment A: JAG Resolution FY 2018

Attachment B: JAG FY18 Complete Application

CITY COUNCIL OF THE CITY OF OXNARD**RESOLUTION NO.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING
SUBMITTAL OF GRANT APPLICATION AND APPROVING THE EXECUTION OF A
MEMORANDUM OF UNDERSTANDING DESIGNATING THE CITY OF OXNARD
AS THE LEAD AGENCY AND FISCAL AGENT FOR GRANT 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, U.S. Department of Justice grant funds in the amount of \$106,112 from the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program has been allocated to law enforcement agencies within the County of Ventura; and

WHEREAS, a joint application for JAG funds must be submitted by law enforcement agencies within the County of Ventura; and

WHEREAS, the Cities of San Buenaventura and Simi Valley have designated the City of Oxnard as the lead agency and fiscal agent for the JAG; and

WHEREAS, the Police Department has requested that City Council approve the submittal of a joint application to the U.S. Department of Justice for \$106,112 in JAG funds, with the City's portion to be used for electronic citation devices and community camera systems.

NOW, THEREFORE, the City Council of the City of Oxnard resolves as follows:

1. The City Manager is authorized to execute and submit a grant application for the Edward Byrne Memorial Assistance Grant (JAG) Formula Program.
2. The City Manager is authorized to execute a Memorandum of Understanding with the County of Ventura and the Cities of San Buenaventura and Simi Valley, designating the City of Oxnard as the lead agency and fiscal agent for the JAG.
3. The City Manager or designee is authorized to execute grant agreements.
4. The Chief Financial Officer or designee is authorized to submit financial reports and grant claims and approve administrative budget adjustments for the use of grant funds.
5. The Chief of Police or designee is authorized to submit all program related progress or status reports.

PASSED AND ADOPTED this 2nd day of October 2018 by the following vote:

AYES:

NOES:

ABSENT:

Tim Flynn, Mayor

ATTEST:

APPROVED AS TO FORM:

Michelle Ascencion City Clerk

Stephen M. Fischer, City Attorney

8/21/2018

https://grants.ojp.usdoj.gov/gmsexternal/applicationReview.do?print=yes

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION		3. DATE RECEIVED BY STATE	State Application Identifier
Application Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name		Organizational Unit	
Oxnard Fire Dept		Oxnard Fire Dept	
Address		Name and telephone number of the person to be contacted on matters involving this application	
360 West Second Street Oxnard, California 93030-5790		Van Atta, Amy (805) 385-8369	
6. EMPLOYER IDENTIFICATION NUMBER (EIN)		7. TYPE OF APPLICANT	
95-6000756		Municipal	
8. TYPE OF APPLICATION		9. NAME OF FEDERAL AGENCY	
New		Bureau of Justice Assistance	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 16.738 CFDA Edward Byrne Memorial Justice Assistance TITLE: Grant Program		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT County of Ventura FY18 Justice Assistance Grant	
12. AREAS AFFECTED BY PROJECT			
County of Ventura and Cities of Oxnard, San Buenaventura and Simi Valley			
13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date: October 01, 2017		a. Applicant	
End Date: September 30, 2021		b. Project CA26	
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
Federal	\$0	This preapplication/application was made available to the state executive order 12372 process for review on 08/21/2018	
Applicant	\$128,217		
State	\$0		
Local	\$0		
Other	\$0		
Program Income	\$0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
TOTAL	\$128,217	N	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED			

8/21/2018

<https://grants.ojp.usdoj.gov/gmsexternal/applicationReview.do?print=yes>

BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.

[Close Window](#)



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
Expires 11/30/2020

Background

Recipients' financial management systems and internal controls must meet certain requirements, including those set out in the "Part 200 Uniform Requirements" (2.C.F.R. Part 2800).

Including at a minimum, the financial management system of each OJP award recipient must provide for the following:

- (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, and the name of the Federal agency.
- (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program.
- (3) Records that identify adequately the source and application of funds for Federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest, and be supported by source documentation.
- (4) Effective control over, and accountability for, all funds, property, and other assets. The recipient must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- (5) Comparison of expenditures with budget amounts for each Federal award.
- (6) Written procedures to document the receipt and disbursement of Federal funds including procedures to minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement by the OJP recipient.
- (7) Written procedures for determining the allowability of costs in accordance with both the terms and conditions of the Federal award and the cost principles to apply to the Federal award.
- (8) Other important requirements related to retention requirements for records, use of open and machine readable formats in records, and certain Federal rights of access to award-related records and recipient personnel.

1. Name of Organization and Address:

Organization Name: **City of Oxnard**
 Street1: **300 W. Third St**
 Street2:
 City: **Oxnard**
 State: **CALIFORNIA**
 Zip Code: **93030**

2. Authorized Representative's Name and Title:

Prefix: First Name: **Deanne** Middle Name:
 Last Name: **Purcell** Suffix:
 Title: **Interim CFO**

3. Phone: **(805) 200-5400**

4. Fax:

5. Email: **deanne.purcell@oxnard.org**

6. Year Established:
1903

7. Employer Identification Number (EIN):
956000756

8. DUNS Number:
1008491520000

9. a) Is the applicant entity a nonprofit organization (including a nonprofit institution of higher education) as described in 26 U.S.C. 501(c)(3) and exempt from taxation under 26 U.S.C. 501(a)? ☐ Yes ☒ No

If "No" skip to Question 10.

If "Yes", complete Questions 9. b) and 9. c).



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
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AUDIT INFORMATION

9. b) Does the applicant nonprofit organization maintain offshore accounts for the purpose of avoiding paying the tax described in 26 U.S.C. 511(a)?

☐ Yes ☐ No

9. c) With respect to the most recent year in which the applicant nonprofit organization was required to file a tax return, does the applicant nonprofit organization believe (or assert) that it satisfies the requirements of 26 C.F.R. 53.4958-6 (which relate to the reasonableness of compensation of certain individuals)?

☐ Yes ☐ No

If "Yes", refer to "Additional Attachments" under "What An Application Should Include" in the OJP solicitation (or application guidance) under which the applicant is submitting its application. If the solicitation/guidance describes the "Disclosure of Process related to Executive Compensation," the applicant nonprofit organization must provide -- as an attachment to its application -- a disclosure that satisfies the minimum requirements as described by OJP.

For purposes of this questionnaire, an "audit" is conducted by an independent, external auditor using generally accepted auditing standards (GAAS) or Generally Governmental Auditing Standards (GAGAS), and results in an audit report with an opinion.

10. Has the applicant entity undergone any of the following types of audit(s) (Please check all that apply):

☒ "Single Audit" under OMB A-133 or Subpart F of 2 C.F.R. Part 200

☒ Financial Statement Audit

☐ Defense Contract Agency Audit (DCAA)

☐ Other Audit & Agency (list type of audit):

☐ None (if none, skip to question 13)

11. Most Recent Audit Report Issued: ☒ Within the last 12 months ☐ Within the last 2 years ☐ Over 2 years ago ☐ N/A

Name of Audit Agency/Firm: **Eadie & Payne LLC**

AUDITOR'S OPINION

12. On the most recent audit, what was the auditor's opinion?

☒ Unqualified Opinion ☐ Qualified Opinion ☐ Disclaimer, Going Concern or Adverse Opinions ☐ N/A: No audits as described above

Enter the number of findings (if none, enter "0"): **19**

Enter the dollar amount of questioned costs (if none, enter "\$0"): **\$ 0**

Were material weaknesses noted in the report or opinion?

☒ Yes ☐ No

13. Which of the following best describes the applicant entity's accounting system:

☐ Manual ☐ Automated ☒ Combination of manual and automated

14. Does the applicant entity's accounting system have the capability to identify the receipt and expenditure of award funds separately for each Federal award?

☒ Yes ☐ No ☐ Not Sure

15. Does the applicant entity's accounting system have the capability to record expenditures for each Federal award by the budget cost categories shown in the approved budget?

☒ Yes ☐ No ☐ Not Sure

16. Does the applicant entity's accounting system have the capability to record cost sharing ("match") separately for each Federal award, and maintain documentation to support recorded match or cost share?

☒ Yes ☐ No ☐ Not Sure



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
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17. Does the applicant entity's accounting system have the capability to accurately track employees actual time spent performing work for each federal award, and to accurately allocate charges for employee salaries and wages for each federal award, and maintain records to support the actual time spent and specific allocation of charges associated with each applicant employee?	☐ Yes ☐ No ☐ Not Sure
18. Does the applicant entity's accounting system include budgetary controls to preclude the applicant entity from incurring obligations or costs that exceed the amount of funds available under a federal award (the total amount of the award, as well as the amount available in each budget cost category)?	☐ Yes ☐ No ☐ Not Sure
19. Is applicant entity familiar with the "cost principles" that apply to recent and future federal awards, including the general and specific principles set out in 2 C.F.R. Part 200?	☐ Yes ☐ No ☐ Not Sure
PROPERTY STANDARDS AND PROCUREMENT STANDARDS	
20. Does the applicant entity's property management system(s) maintain the following information on property purchased with federal award funds (1) a description of the property; (2) an identification number; (3) the source of funding for the property, including the award number; (4) who holds title; (5) acquisition date; (6) acquisition cost; (7) federal share of the acquisition cost; (8) location and condition of the property; (9) ultimate disposition information?	☐ Yes ☐ No ☐ Not Sure
21. Does the applicant entity maintain written policies and procedures for procurement transactions that -- (1) are designed to avoid unnecessary or duplicative purchases; (2) provide for analysis of lease versus purchase alternatives; (3) set out a process for soliciting goods and services, and (4) include standards of conduct that address conflicts of interest?	☐ Yes ☐ No ☐ Not Sure
22. a) Are the applicant entity's procurement policies and procedures designed to ensure that procurements are conducted in a manner that provides full and open competition to the extent practicable, and to avoid practices that restrict competition?	☐ Yes ☐ No ☐ Not Sure
22. b) Do the applicant entity's procurement policies and procedures require documentation of the history of a procurement, including the rationale for the method of procurement, selection of contract type, selection or rejection of contractors, and basis for the contract price?	☐ Yes ☐ No ☐ Not Sure
23. Does the applicant entity have written policies and procedures designed to prevent the applicant entity from entering into a procurement contract under a federal award with any entity or individual that is suspended or debarred from such contracts, including provisions for checking the "Excluded Parties List" system (www.sam.gov) for suspended or debarred sub-grantees and contractors, prior to award?	☐ Yes ☐ No ☐ Not Sure
TRAVEL POLICY	
24. Does the applicant entity:	
(a) maintain a standard travel policy?	☐ Yes ☐ No
(b) adhere to the Federal Travel Regulation (FTR)?	☐ Yes ☐ No
SUBRECIPIENT MANAGEMENT AND MONITORING	
25. Does the applicant entity have written policies, procedures, and/or guidance designed to ensure that any subawards made by the applicant entity under a federal award -- (1) clearly document applicable federal requirements, (2) are appropriately monitored by the applicant, and (3) comply with the requirements in 2 CFR Part 200 (see 2 CFR 200.331)?	☐ Yes ☐ No ☐ Not Sure ☐ N/A - Applicant does not make subawards under any OJP awards



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

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26. Is the applicant entity aware of the differences between subawards under federal awards and procurement contracts under federal awards, including the different roles and responsibilities associated with each?	☒ Yes ☐ No ☐ Not Sure ☐ N/A - Applicant does not make subawards under any OJP awards
27. Does the applicant entity have written policies and procedures designed to prevent the applicant entity from making a subaward under a federal award to any entity or individual is suspended or debarred from such subawards?	☒ Yes ☐ No ☐ Not Sure ☐ N/A - Applicant does not make subawards under any OJP awards

DESIGNATION AS 'HIGH-RISK' BY OTHER FEDERAL AGENCIES

28. Is the applicant entity designated "high risk" by a federal grant-making agency outside of DOJ? (High risk includes any status under which a federal awarding agency provides additional oversight due to the applicant's past performance, or other programmatic or financial concerns with the applicant.) If "Yes", provide the following: (a) Name(s) of the federal awarding agency: (b) Date(s) the agency notified the applicant entity of the "high risk" designation: (c) Contact information for the "high risk" point of contact at the federal agency: Name: Phone: Email: (d) Reason for "high risk" status, as set out by the federal agency:	☐ Yes ☒ No ☐ Not Sure
--	--

CERTIFICATION ON BEHALF OF THE APPLICANT ENTITY

(Must be made by the chief executive, executive director, chief financial officer, designated authorized representative ("AOR"), or other official with the requisite knowledge and authority)

On behalf of the applicant entity, I certify to the U.S. Department of Justice that the information provided above is complete and correct to the best of my knowledge. I have the requisite authority and information to make this certification on behalf of the applicant entity.

Name: **Deanne Purcell** Date: **2018-08-13**

Title: ☐ Executive Director ☐ Chief Financial Officer ☐ Chairman
☒ Other: **Interim CFO**

Phone: **(805) 200-5400**

Budget Detail - Year 1

Does this budget contain conference costs which is defined broadly to include meetings, retreats, seminars, symposia, and training activities? - Y/N
(DOJ Financial Guide, Section 3.10)

A. Personnel

Name <i>List each name, if known.</i>	Position <i>List each position, if known.</i>	Computation <i>Show annual salary rate & amount of time devoted to the project for each name/position.</i>						
		Salary	Rate	Time Worked (# of hours, days, months, years)	Percentage of Time	Total Cost	Non-Federal Contribution	Federal Request
						\$0		\$0
Total(s)						\$0	\$0	\$0

Narrative

B. Fringe Benefits						
Name <i>List each grant-supported position receiving fringe benefits.</i>		Computation <i>Show the basis for computation.</i>				
		Base	Rate	Total Cost	Non-Federal Contribution	Federal Request
				\$0		\$0
Total(s)				\$0	\$0	\$0
Narrative						

Purpose Area #4

C. Travel										
Purpose of Travel	Location	Type of Expense	Basis	Computation						
<i>Indicate the purpose of each trip or type of trip (training, advisory group meeting)</i>	<i>Indicate the travel destination.</i>	<i>Lodging, Meals, Etc.</i>	<i>Per day, mile, trip, Etc.</i>	<i>Compute the cost of each type of expense X the number of people traveling.</i>						
				Cost	Quantity	# of Staff	# of Trips	Total Cost	Non-Federal Contribution	Federal Request
			N/A					\$0		\$0
Total(s)								\$0	\$0	\$0
Narrative										

D. Equipment					
Item	Computation				
<i>List and describe each item of equipment that will be purchased</i>	<i>Compute the cost (e.g., the number of each item to be purchased X the cost per item)</i>				
	# of Items	Unit Cost	Total Cost	Non-Federal Contribution	Federal Request
Overt Camera Systems	4	\$5,000.00	\$20,000		\$20,000
Total(s)			\$20,000	\$0	\$20,000
Narrative					
The Oxnard Police Department recently implemented a Community Camera Program that places overt camera systems into selected neighborhoods that have historically been impacted violent crime. These camera systems act as a deterrent to further crime, assist investigators with post-incident evidence, and can provide live monitoring for officers responding to calls for service. This proposed funding will allow the Department to deploy four (4) additional camera systems in affected neighborhoods.					

E. Supplies					
Supply Items		Computation			
Provide a list of the types of items to be purchased with grant funds.		Describe the item and the compute the costs. Computation: The number of each item to be purchased X the cost per item.			
	# of Items	Unit Cost	Total Cost	Non-Federal Contribution	Federal Request
Electronic Citation Machines	12	\$3,500.00	\$42,000		\$42,000
Total(s)			\$42,000	\$0	\$42,000
Narrative					
The Oxnard Police Department has recently implemented an eCitation module that results in accurate information being seamlessly integrated in the Law Enforcement Records Management Software (LERMS). Electronic citations allow for greater efficiency for field officers and less data entry within our Records Division. This proposed funding will allow the Department to deploy twelve (12) additional electronic citation machines in the Patrol Division.					

F. Construction						
Purpose <i>Provide the purpose of the construction</i>	Description of Work <i>Describe the construction project(s)</i>	Computation <i>Compute the costs (e.g., the number of each item to be purchased X the cost per item)</i>				
		# of Items	Cost	Total Cost	Non-Federal Contribution	Federal Request
				\$0		\$0
Total(s)				\$0	\$0	\$0
Narrative						

Purpose Area #4

G. Subawards (Subgrants)								
Description	Purpose	Consultant?						
<i>Provide a description of the activities to be carried out by subrecipients.</i>	<i>Describe the purpose of the subaward (subgrant)</i>	<i>Is the subaward for a consultant? If yes, use the section below to explain associated travel expenses included in the cost.</i>						
			Total Cost	Non-Federal Contribution	Federal Request			
Ventura County Sheriff's Office - NIBRS set-aside	Training for staff on NIBRS		\$326		\$326			
City of San Buenaventura Police Department - NIBRS set-aside	Training for staff on NIBRS		\$761		\$761			
City of San Buenaventura Police Department - Security Cameras for Headquarters	The Ventura Police Department (VPD) would like to use the 2018 JAG Funds for the purchase and installation of new security cameras throughout the Department Headquarters. The existing cameras are all a minimum of 14		\$23,340		\$23,340			
Ventura County Sheriff's Office - California Homicide Investigators Association	Specialized training for two (2) deputies. Tuition (2 @ \$400 each) = \$800 Lodging (2 @ \$164/night x 4 nights) = \$656		\$2,028		\$2,028			
Ventura County Sheriff's Office - California Narcotics Officers Association Conference	Specialized training for two (2) deputies. Tuition (2 @ \$585 each) = \$1,170 Lodging (2 @ \$233/night x 5 nights) = \$1,165		\$2,905		\$2,905			
Ventura County Sheriff's Office - International Latino Gang Investigators Association Conference	Specialized training for two (2) deputies. Tuition (2 @ \$400 each) = \$800 Lodging (2 @ \$125/night x 4 nights) = \$500		\$1,870		\$1,870			
Ventura County Sheriff's Office -Southern California Gang Conference	Specialized training for two (2) deputies. Tuition (2 @ \$350 each) = \$700 Lodging (2 @ \$139/night x 4 nights) = \$556		\$1,826		\$1,826			
Ventura County Sheriff's Office - Surveillance and Covert Operations Training	Specialized training for two (2) deputies. Tuition (2 @ \$400 each) = \$800 Lodging (2 @ \$135/night x 4 nights) = \$542		\$1,912		\$1,912			
Simi Valley Police Department - NIBRS set-aside	Training for staff on NIBRS		\$347		\$347			
Simi Valley Police Department - Californian Association of Tactical Officers Conference	To send two sworn individuals to the California Association of Tactical Officers Conference. The grant money would be used to pay for conference registration fees, lodging and per diem. This conference provides advanced		\$1,306		\$1,306			
Simi Valley Police Department - Calibre Press Street Survival Training	The Simi Valley Police Department has made training a priority through this grant application process. During the 2018 JAG cycle, the Department proposes that the JAG funding be directed towards providing advanced		\$9,900		\$9,900			
Total(s)			\$46,521	\$0	\$46,521			
Consultant Travel (if necessary)								
Purpose of Travel	Location	Type of Expense	Computation					
<i>Indicate the purpose of each trip or type of trip (training, advisory group meeting)</i>	<i>Indicate the travel destination.</i>	<i>Hotel, airfare, per diem</i>	<i>Compute the cost of each type of expense X the number of people traveling.</i>					
			Cost	Duration or Distance	# of Staff	Total Cost	Non-Federal Contribution	Federal Request

Purpose Area #4

						\$0		\$0	
Total						\$0	\$0	\$0	
Narrative									
H. Procurement Contracts									
Description <i>Provide a description of the products or services to be procured by contract and an estimate of the costs. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source procurements in excess of the Simplified Acquisition Threshold (currently \$150,000).</i>		Purpose <i>Describe the purpose of the contract</i>		Consultant? <i>Is the subaward for a consultant? If yes, use the section below to explain associated travel expenses included in the cost.</i>					
						Total Cost	Non-Federal Contribution	Federal Request	
								\$0	
Total(s)						\$0	\$0	\$0	
Consultant Travel (if necessary)									
Purpose of Travel <i>Indicate the purpose of each trip or type of trip (training, advisory group meeting)</i>		Location <i>Indicate the travel destination.</i>		Type of Expense <i>Hotel, airfare, per diem</i>		Computation <i>Compute the cost of each type of expense X the number of people traveling.</i>			
				Cost	Duration or Distance	# of Staff	Total Cost	Non-Federal Contribution	Federal Request

Purpose Area #4

						\$0		\$0
Total						\$0	\$0	\$0
Narrative								
I. Other Costs								
Description <i>List and describe items that will be paid with grants funds (e.g. rent, reproduction, telephone, janitorial, or security services, and investigative or confidential funds).</i>		Computation <i>Show the basis for computation</i>						
	Quantity	Basis	Cost	Length of Time	Total Cost	Non-Federal Contribution	Federal Request	
					\$0			\$0
Total(s)						\$0	\$0	\$0
Narrative								

J. Indirect Costs					
Description <i>Describe what the approved rate is and how it is applied.</i>	Computation <i>Compute the indirect costs for those portions of the program which allow such costs.</i>				
	Base	Indirect Cost Rate	Total Cost	Non-Federal Contribution	Federal Request
City of Oxnard Administration fee	\$128,217.00	0.05	\$6,411		\$6,411
		Total(s)	\$6,411	\$0	\$6,411
Narrative					
The City of Oxnard does not have a current federally approved indirect cost rate and has elected to use the "de minimis" allowable indirect cost rate of 5%.					

**CITY OF OXNARD
VENTURA COUNTY'S EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE
GRANT FY2018 LOCAL SOLICITATION
PROJECT IDENTIFIERS
ATTACHMENT 1**

The City of Oxnard shall serve as the lead agency for the following Ventura County agencies: County of Ventura; cities of: Oxnard, San Buenaventura, and Simi Valley. The agencies are submitting this Edward Byrne Justice Assistance Grant (JAG) FY 2018 Local Solicitation application with the intention of utilizing funds to improve local law enforcement efforts. The agencies share the goals of using the requested grant funding to avoid reductions and eliminations of vital equipment and supply purchases to enhance public safety. The goal of addressing crime in the community will be assisted with the various equipment, training and supplies expenditures proposed.

The top program identifiers associated with this grant funding are the following:

1. Closed Circuit Televising
2. Conferences and Training
3. Equipment – Video/Audio
4. Officer Safety
5. Officer Wellness
6. Traffic Enforcement

**CITY OF OXNARD
VENTURA COUNTY'S EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE
GRANT FY2018 LOCAL SOLICITATION
PROGRAM NARRATIVE
ATTACHMENT 2**

The Edward Byrne Memorial Justice Assistance Grant FY2018 Local Solicitation allocates funds to five (5) agencies in Ventura County. The City of Thousand Oaks has elected not to participate in this application. The four (4) Ventura County agencies jointly applying for this grant will utilize funding for enhancement items, categorized under the program identifiers: closed circuit television, conferences and training, equipment – video/audio, officer safety, officer wellness, and traffic enforcement. The grant funding will be distributed as follows:

Jurisdiction	5% Fee	Equipment	Supplies	Other	NIBRS	Total
Oxnard City	3,429	-	65,153	-	-	68,582
San Buenaventura City	1,268	-	23,340	-	761	25,369
Simi Valley City	608	-	-	11,206	347	12,161
Thousand Oaks City	-	-	-	-	-	10,666
Ventura County	572	-	-	10,541	326	11,439
Total	5,877	-	98,626	21,747	1,434	128,217

Total Allocation \$128,217

Statement of Problem

The City of Oxnard shall serve as the lead agency for the following Ventura County agencies: County of Ventura; cities of: Oxnard, San Buenaventura, and Simi Valley. The agencies are submitting this Edward Byrne Justice Assistance Grant (JAG) FY 2018 Local Solicitation application with the intention of utilizing funds to improve local law enforcement efforts. The agencies share the goals of using the requested grant funding to avoid reductions and eliminations of vital equipment, training and supply purchases to enhance public safety. The goal of addressing crime in the community will be assisted with the various equipment, training, and supplies expenditures proposed. The strategies used are having each participating agency assess its needs and submit them to the City of Oxnard.

Project Design and Implementation

The City of Oxnard has reviewed the strategic goals of the Department and leveraged JAG funds to assist in their mission of "Protecting the Community with Excellent Service". The City of Oxnard and subgrantees have evaluated the best use government funds to enhance policing efforts, community safety and efficiencies within each agency. The City of Oxnard will provide the community thirty days to review the application and will host a Public Hearing at the Oxnard City Council Meeting on October 2, 2018. The City of Oxnard will only accept funds if Council provides a positive Resolution on the action.

**CITY OF OXNARD
VENTURA COUNTY'S EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE
GRANT FY2018 LOCAL SOLICITATION
PROGRAM NARRATIVE
ATTACHMENT 2**

Capabilities and Competencies

The City of Oxnard, as lead agency, will be charging a 5% administrative fee. The administrative fee will be used to offset the salary for Oxnard Police Department Finance and Grants Manager who will be responsible for collecting data for quarterly and final reports as well as processing all reimbursements for grant funded purchases to disparate agencies. She will act as the point of contact for modification requests, compliance questions and other needs that may arise throughout the grant period.

The expenditures will be segregated by the City of Oxnard Grants Division with an assigned grant/project number and account numbers specifically allocated to this grant. The activities will begin upon receipt of an executed award letter from the funding agency. The subawardees will track their performance objectives and submit directly on the Bureau of Justice Assistance website pursuant to the reporting requirements of the Justice Assistance Grant.

Plan for Collecting the Data

The City of Oxnard will require each subgrantee to self-report on the Bureau of Justice Assistance Performance Measurement Tool website. The projects requesting funding are limited to training, equipment and supply purchases; rendering research based project evaluations unnecessary. Agencies will report on the number of participants trained, equipment and supplies purchased, and implementation of new technology.



OXNARD POLICE DEPARTMENT

Protecting Our Community with Exceptional Service

CHIEF OF POLICE

Scott Whitney

ASSISTANT POLICE CHIEF

Jason Benites

ASSISTANT POLICE CHIEF

Eric S. Sonstegard

251 SOUTH C STREET, OXNARD, CALIFORNIA 93030-5789 * (805) 385-7600 * <http://oxnardpd.org>

August 20, 2018

Jon Adler, Director
Bureau of Justice Assistance
Office of Justice Programs
810 Seventh Street, NW
Washington DC, 20531

Re: Grant Waiver Request

Director Adler,

I am writing to you to request a waiver on the 3% set-aside to our recent Justice Assistance Grant (JAG) application. The 3% set-aside is intended for agencies to use as a funding source for the transition to the National Incidents-Based Reporting System (NIBRS) from the Uniform Crime Reporting (UCR). We are requesting a waiver because we have already applied for federal funding through grant project *FY 2018 NCS-X Implementation Assistance Program: Support for Local Law Enforcement Agencies, Part 2*.

The Oxnard Police Department was selected to participate in an early transition program through the National Crime Statistics Exchange (NCS-X) and Bureau of Justice Statistics. Based on the current project timeline and barring any delays with California Incidents-Based Reporting System (CIBRS), we expect to be NIBRS certified by February 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Whitney".

Scott Whitney
Chief of Police

**CITY OF OXNARD
VENTURA COUNTY'S EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE
GRANT FY2018 LOCAL SOLICITATION
INDIRECT COST RATE AGREEMENT
ATTACHMENT 4**

The City of Oxnard does not have a current federally approved indirect cost rate and has elected to use the "de minimis" allowable indirect cost rate of 5%.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: ☒ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance		2. Status of Federal Action: ☒ a. bid/offer/application ☐ b. initial award ☐ c. post-award		3. Report Type: ☒ a. initial filing ☐ b. material change For Material Change Only: year quarter date of last report	
4. Name and Address of Reporting Entity: ☒ Prime ☐ Subawardee Tier , if known: City of Oxnard, Police Department 251 South C Street Oxnard, CA 93030 Congressional District, if known: 26			5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:		
6. Federal Department/Agency: 			7. Federal Program Name/Description: CFDA Number, if applicable: 16.738		
8. Federal Action Number, if known:			9. Award Amount, if known: \$ 128,217.00		
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI): Mike Arnold & Associates 1127 Eleventh Street, Suite 820 Sacramento, CA 95815			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): O'Donnell, John - Murray, Montgomery & O'Donnell 101 Constitution Avenue, NW 9th Floor Washington, DC 20001		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: <u>Scott Whitney</u> Print Name: <u>Scott Whitney</u> Title: <u>Chief of Police</u> Telephone No.: <u>(805) 385-7624</u> Date: <u>8/13/2018</u>		
Federal Use Only:			Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)		

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

State or Local Government: FY 2018 Certification as to 8 U.S.C. §§ 1373 & 1644

On behalf of the applicant government entity named below, and in support of its application, I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

- (1) I am the chief legal officer of the State or local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
- (2) I have carefully reviewed 8 U.S.C. §§ 1373(a) & (b), and 1644, including the prohibitions on certain actions by State and local government entities, -agencies, and -officials regarding information regarding citizenship and immigration status. I also have reviewed the provisions set out at (or referenced in) 8 U.S.C. § 1551 note ("Abolition ... and Transfer of Functions"), pursuant to which references to the "Immigration and Naturalization Service" in 8 U.S.C. §§ 1373 & 1644 are to be read, as a legal matter, as references to particular components of the U.S. Department of Homeland Security.
- (3) I (and also the applicant entity) understand that the U.S. Department of Justice will require States and local governments (and agencies or other entities thereof) to comply with 8 U.S.C. §§ 1373 & 1644, with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2018 OJP program under which this certification is being submitted (the "FY 2018 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2018 OJP Program.
- (4) I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 34 U.S.C. § 10251(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (*i.e.*, one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
- (5) I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning the following (which, for the specific purpose of paragraph 5, shall not be understood to include any "program or activity" of any subrecipient at any tier):
 - (a) the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2018 OJP Program; and
 - (b) any prohibitions or restrictions potentially applicable to the "program or activity" sought to be funded under the FY 2018 OJP Program that deal with sending to, requesting or receiving from, maintaining, or exchanging information of the types described in 8 U.S.C. §§ 1373(a) & (b), and 1644, whether imposed by a State or local government entity, -agency, or -official.
- (6) As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any prohibition or any restriction that would apply to the "program or activity" to be funded in whole or in part under the FY 2018 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that deals with either— (1) a government entity or -official sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. §§ 1373(a) & 1644; or (2) a government entity or -agency sending to, requesting or receiving from, maintaining, or exchanging information of the types (and with respect to the entities) described in 8 U.S.C. § 1373(b).

Signature of Chief Legal Officer of the Jurisdiction

Date of Certification

Name of Applicant Government Entity (*i.e.*, the applicant to the FY 2018 OJP Program identified below)

Printed Name of Chief Legal Officer

Title of Chief Legal Officer of the Jurisdiction

FY 2018 OJP Program: Byrne Justice Assistance Grant (JAG) Program: Local

Rev. August 16, 2018

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

**State or Local Government: FY 2018 Certification Relating to
8 U.S.C. §§ 1226(a) & (c), 1231(a), 1324(a), 1357(a), & 1366(1) & (3)**

On behalf of the applicant government entity named below, and in support of its application, I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief legal officer of the unit of local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
2. I have carefully reviewed each of the following sections of title 8, United States Code:
 - a. § 1226(a) & (c) (authorizing arrest and detention of certain aliens and providing that the federal government "shall take into custody" certain criminal aliens "when the alien is released");
 - b. § 1231(a) (providing that a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien incarcerated by a State or local government, or by the federal government, from the United States generally "begins" no later than "the date the alien is released from detention or confinement; and providing that the federal government may not "remove an alien [including "an alien in the custody of a State (or a political subdivision of a State)] who is sentenced to imprisonment until the alien is released from imprisonment");
 - c. § 1324(a) (forbidding any "person," in "knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law," to "conceal[], harbor[], or shield[] from detection, or attempt[] to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation" or to "engage in any conspiracy to commit any of the preceding acts ... or aid[] or abet[] the commission of any of the preceding acts");
 - d. § 1357(a) (authorizing immigration officers, "anywhere in or outside the United States" (see 8 C.F.R. § 287.5(a)), to "interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States"); and
 - e. § 1366(1) & (3) (requiring the Attorney General annually to submit to Congress "a report detailing ... (1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense; [and] (3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal").
3. I (and also the applicant entity) understand that USDOJ will require States and local governments (including State and local government entities, -agencies, and -officials), with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2018 OJP program under which this certification is being submitted (the "FY 2018 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2018 OJP Program, not to violate, or to aid or abet any violation of, 8 U.S.C. § 1324(a), and not to impede the exercise by federal officers of authority under 8 U.S.C. § 1357(a) or relating to 8 U.S.C. § 1366(1) & (3) or 8 U.S.C. § 1226(a) & (c).
4. I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (*cf.* 34 U.S.C. § 10251(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (*i.e.*, one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
5. I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning the following (which, for the specific purpose of paragraph 5, shall not be understood to include any "program or activity" of any subrecipient at any tier):
 - a. the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2018 OJP Program; and
 - b. any laws, rules, policies, or practices potentially applicable to the "program or activity" sought to be funded under the FY 2018 OJP Program that implicate any of the requirements relating to 8 U.S.C. §§ 1226(a) & (c), 1231(a), 1324(a), 1357(a), & 1366(1) & (3) that are described in paragraph 2 of this certification, whether imposed by a State or local government entity, -agency, or -official.
6. As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any law, rule, policy, or practice that would apply to the "program or activity" to be funded in whole or in part under the FY 2018 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that would or does—(1) violate, or aid or abet any violation of, 8 U.S.C. § 1324(a); (2) impede the exercise by federal officers of authority under 8 U.S.C. § 1357(a); or (3) impede the exercise by federal officers of authority relating to 8 U.S.C. § 1226(a) or (c), 8 U.S.C. § 1231(a), or 8 U.S.C. § 1366(1) or (3).

Signature of Chief Legal Officer of the Jurisdiction

Date of Certification

Name of Applicant Government Entity (*i.e.*, the applicant to the FY 2018 OJP Program identified below)

Printed Name of Chief Legal Officer

Title of Chief Legal Officer of the Jurisdiction

FY 2018 OJP Program: Byrne Justice Assistance Grant (JAG) Program: Local

Rev. August 16, 2018



OXNARD POLICE DEPARTMENT

Protecting Our Community with Exceptional Service

CHIEF OF POLICE

Scott Whitney

ASSISTANT POLICE CHIEF

Jason Benites

ASSISTANT POLICE CHIEF

Eric S. Sonstegard

251 SOUTH C STREET, OXNARD, CALIFORNIA 93030-5789 * (805) 385-7600 * <http://oxnardpd.org>

ATTACHMENT E OXNARD POLICE DEPARTMENT

1. Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?
 - a. YES
2. Is your jurisdiction subject to any laws from a superior political entity (e.g. a state law that binds a city) that meet the description in question 1?
 - a. YES
3. If yes to either:
 - a. Please provide a copy of each law or policy
 - i. Oxnard Police Department Policy "Immigration Violations" (attached)
 - ii. California Values Act ("SB 54") (attached)
 - b. Please describe each practice
 - i. Nothing in either law/policy precludes personnel from communicating with DHS or ICE.
 - c. Please explain how the law, policy, or practice complies with section 1373.
 - i. Nothing in either law/policy precludes personnel from communicating with DHS or ICE.

**Policy
428****Oxnard Police Department**
Oxnard PD Policy Manual

Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Oxnard Police Department relating to immigration and interacting with federal immigration officials.

428.2 POLICY

It is the policy of the Oxnard Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this [department/office] in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

428.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code 7284.6).

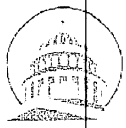
428.5 DETENTIONS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal violation of federal immigration laws (Government Code 7284.6).

428.6 FEDERAL REQUESTS FOR ASSISTANCE

Members of the Oxnard Police Department will not directly participate in field-level immigration enforcement. Requests by federal immigration officials for assistance from this [department/office] shall be directed to a Commander or Bureau Chief. The Commander or Bureau Chief is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).



California

LEGISLATIVE INFORMATION

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SB-54 Law enforcement: sharing data. (2017-2018)

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Date Published: 10/05/2017 09:00 PM

Senate Bill No. 54

CHAPTER 495

An act to amend Sections 7282 and 7282.5 of, and to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of, the Government Code, and to repeal Section 11369 of the Health and Safety Code, relating to law enforcement.

[Approved by Governor October 05, 2017. Filed with Secretary of State
October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 54, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things and subject to exceptions, prohibit state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, and would, subject to exceptions, proscribe other activities or conduct in connection with immigration enforcement by law enforcement agencies. The bill would apply those provisions to the circumstances in which a law enforcement official has discretion to cooperate with immigration authorities. The bill would require, by October 1, 2018, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. The bill would require, among others, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state that, among others, all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require that a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, submit a report annually pertaining to task force operations to the Department of Justice, as specified. The bill would require the Attorney General, by March 1, 2019, and annually thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require law

enforcement agencies to report to the department annually regarding transfers of persons to immigration authorities. The bill would require the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of limiting the availability of information for immigration enforcement, as specified. The bill would require the Department of Corrections and Rehabilitation to provide a specified written consent form in advance of any interview between a person in department custody and the United States Immigration and Customs Enforcement regarding civil immigration violations.

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools and local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7282 of the Government Code is amended to read:

7282. For purposes of this chapter, the following terms have the following meanings:

- (a) "Conviction" shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.
- (b) "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:
 - (1) All criminal charges against the individual have been dropped or dismissed.
 - (2) The individual has been acquitted of all criminal charges filed against him or her.
 - (3) The individual has served all the time required for his or her sentence.
 - (4) The individual has posted a bond.
 - (5) The individual is otherwise eligible for release under state or local law, or local policy.
- (c) "Hold request," "notification request," and "transfer request" have the same meanings as provided in Section 7283. Hold, notification, and transfer requests include requests issued by the United States Immigration and Customs Enforcement or the United States Customs and Border Protection as well as any other immigration authorities.
- (d) "Law enforcement official" means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.
- (e) "Local agency" means any city, county, city and county, special district, or other political subdivision of the state.
- (f) "Serious felony" means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.
- (g) "Violent felony" means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony as defined by subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 7282.5 of the Government Code is amended to read:

7282.5. (a) A law enforcement official shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or local law, or local policy, and where permitted by the California Values Act (Chapter 17.25 (commencing with Section 7284)). Additionally, the specific activities described in subparagraph (C) of paragraph (1) of subdivision (a) of, and in paragraph (4) of subdivision (a) of, Section 7284.6 shall only occur under the following circumstances:

(1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code.

(2) The individual has been convicted of a felony punishable by imprisonment in the state prison.

(3) The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony for, any of the following offenses:

(A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.

(B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.

(C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

(D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.

(E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.

(F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.

(G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.

(H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

(I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

(J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.

(K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.

(L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).

(M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.

(N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.

(O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.

(P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.

(Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and

12022.9 of, the Penal Code.

(R) Possession or use of a firearm in the commission of an offense.

(S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.

(T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.

(U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.

(V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.

(W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.

(X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.

(Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.

(Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.

(AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

(AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.

(AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.

(AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.

(AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.

(4) The individual is a current registrant on the California Sex and Arson Registry.

(5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

(6) In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.

(b) In cases in which the individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code, respectively, or a felony that is punishable by imprisonment in state prison, and the magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code, a law enforcement official shall additionally have discretion to cooperate with immigration officials pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 7284.6.

SEC. 3. Chapter 17.25 (commencing with Section 7284) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.25. Cooperation with Immigration Authorities

7284. This chapter shall be known, and may be cited, as the California Values Act.

7284.2. The Legislature finds and declares the following:

- (a) Immigrants are valuable and essential members of the California community. Almost one in three Californians is foreign born and one in two children in California has at least one immigrant parent.
- (b) A relationship of trust between California's immigrant community and state and local agencies is central to the public safety of the people of California.
- (c) This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians.
- (d) Entangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.
- (e) State and local participation in federal immigration enforcement programs also raises constitutional concerns, including the prospect that California residents could be detained in violation of the Fourth Amendment to the United States Constitution, targeted on the basis of race or ethnicity in violation of the Equal Protection Clause, or denied access to education based on immigration status. See *Sanchez Ochoa v. Campbell, et al.* (E.D. Wash. 2017) 2017 WL 3476777; *Trujillo Santoya v. United States, et al.* (W.D. Tex. 2017) 2017 WL 2896021; *Moreno v. Napolitano* (N.D. Ill. 2016) 213 F. Supp. 3d 999; *Morales v. Chadbourne* (1st Cir. 2015) 793 F.3d 208; *Miranda-Olivares v. Clackamas County* (D. Or. 2014) 2014 WL 1414305; *Galarza v. Szalczyk* (3d Cir. 2014) 745 F.3d 634.
- (f) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments.
- (g) It is the intent of the Legislature that this chapter shall not be construed as providing, expanding, or ratifying any legal authority for any state or local law enforcement agency to participate in immigration enforcement.

7284.4. For purposes of this chapter, the following terms have the following meanings:

- (a) "California law enforcement agency" means a state or local law enforcement agency, including school police or security departments. "California law enforcement agency" does not include the Department of Corrections and Rehabilitation.
- (b) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.
- (c) "Immigration authority" means any federal, state, or local officer, employee, or person performing immigration enforcement functions.
- (d) "Health facility" includes health facilities as defined in Section 1250 of the Health and Safety Code, clinics as defined in Sections 1200 and 1200.1 of the Health and Safety Code, and substance abuse treatment facilities.
- (e) "Hold request," "notification request," "transfer request," and "local law enforcement agency" have the same meaning as provided in Section 7283. Hold, notification, and transfer requests include requests issued by United States Immigration and Customs Enforcement or United States Customs and Border Protection as well as any other immigration authorities.
- (f) "Immigration enforcement" includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.
- (g) "Joint law enforcement task force" means at least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.
- (h) "Judicial probable cause determination" means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.
- (i) "Judicial warrant" means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest

and take into custody the person who is the subject of the warrant.

(j) "Public schools" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board, the California State University, and the California Community Colleges.

(k) "School police and security departments" includes police and security departments of the California State University, the California Community Colleges, charter schools, county offices of education, schools, and school districts.

7284.6. (a) California law enforcement agencies shall not:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:

(A) Inquiring into an individual's immigration status.

(B) Detaining an individual on the basis of a hold request.

(C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

(D) Providing personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.

(E) Making or intentionally participating in arrests based on civil immigration warrants.

(F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(G) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

(2) Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(3) Use immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

(4) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.

(5) Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.

(6) Contract with the federal government for use of California law enforcement agency facilities to house individuals as federal detainees, except pursuant to Chapter 17.8 (commencing with Section 7310).

(b) Notwithstanding the limitations in subdivision (a), this section does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that may be subject to the enhancement specified in Section 1326(b)(2) of Title 8 of the United States Code and that is detected during an unrelated law enforcement activity. Transfers to immigration authorities are permitted under this subsection only in accordance with paragraph (4) of subdivision (a).

(2) Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined in subdivision (f) of Section 7284.4.

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(C) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject.

(4) Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to Section 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code or to comply with Section 922(d)(5) of Title 18 of the United States Code.

(5) Giving immigration authorities access to interview an individual in agency or department custody. All interview access shall comply with requirements of the TRUTH Act (Chapter 17.2 (commencing with Section 7283)).

(c) (1) If a California law enforcement agency chooses to participate in a joint law enforcement task force, for which a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis, it shall submit a report annually to the Department of Justice, as specified by the Attorney General. The law enforcement agency shall report the following information, if known, for each task force of which it is a member:

(A) The purpose of the task force.

(B) The federal, state, and local law enforcement agencies involved.

(C) The total number of arrests made during the reporting period.

(D) The number of people arrested for immigration enforcement purposes.

(2) All law enforcement agencies shall report annually to the Department of Justice, in a manner specified by the Attorney General, the number of transfers pursuant to paragraph (4) of subdivision (a), and the offense that allowed for the transfer, pursuant to paragraph (4) of subdivision (a).

(3) All records described in this subdivision shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

(d) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's Internet Web site.

(e) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters.

7284.8. (a) The Attorney General, by October 1, 2018, in consultation with the appropriate stakeholders, shall publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, public libraries, health facilities operated by the state or a political subdivision of the state, courthouses, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. All public schools, health facilities operated by the state or a political subdivision of the state, and courthouses shall implement the model policy, or an equivalent policy. The Agricultural Labor Relations Board, the Division of Workers' Compensation, the Division of Labor Standards Enforcement, shelters, libraries, and all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy.

(b) For any databases operated by state and local law enforcement agencies, including databases maintained for the agency by private vendors, the Attorney General shall, by October 1, 2018, in consultation with appropriate stakeholders, publish guidance, audit criteria, and training recommendations aimed at ensuring that those databases are governed in a manner that limits the availability of information therein to the fullest extent practicable and consistent with federal and state law, to anyone or any entity for the purpose of immigration enforcement. All state and local law enforcement agencies are encouraged to adopt necessary changes to database governance policies consistent with that guidance.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), the Department of Justice may implement, interpret, or make specific this chapter without taking any regulatory action.

7284.10. (a) The Department of Corrections and Rehabilitation shall:

(1) In advance of any interview between the United States Immigration and Customs Enforcement (ICE) and an individual in department custody regarding civil immigration violations, provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(2) Upon receiving any ICE hold, notification, or transfer request, provide a copy of the request to the individual and inform him or her whether the department intends to comply with the request.

(b) The Department of Corrections and Rehabilitation shall not:

(1) Restrict access to any in-prison educational or rehabilitative programming, or credit-earning opportunity on the sole basis of citizenship or immigration status, including, but not limited to, whether the person is in removal proceedings, or immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

(2) Consider citizenship and immigration status as a factor in determining a person's custodial classification level, including, but not limited to, whether the person is in removal proceedings, or whether immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

7284.12. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. Section 11369 of the Health and Safety Code is repealed.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

**Local Government: FY 2018 Certification Relating to
8 U.S.C. §§ 1226(a) & (c), 1231(a)(4), 1324(a), 1357(a), & 1366(1) & (3)**

On behalf of the applicant government entity named below, and in support of its application, I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief legal officer of the unit of local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
2. I have carefully reviewed each of the following sections of title 8, United States Code:
 - a. § 1226(a) & (c) (authorizing arrest and detention of certain aliens and providing that the federal government "shall take into custody" certain criminal aliens "when the alien is released");
 - b. § 1231(a)(4) (federal government may not "remove an alien who is sentenced to imprisonment until the alien is released from imprisonment");
 - c. § 1324(a) (forbidding any "person," in "knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law," to "conceal[], harbor[], or shield[] from detection, or attempt[] to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation" or to "engage in any conspiracy to commit any of the preceding acts ... or aid[] or abet[] the commission of any of the preceding acts");
 - d. § 1357(a) (authorizing immigration officers, "anywhere in or outside the United States" (see 8 C.F.R. § 287.5(a)), to "interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States"); and
 - e. § 1366(1) & (3) (requiring the Attorney General annually to submit to Congress "a report detailing ... (1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense; [and] (3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal").
3. I (and also the applicant entity) understand that USDOJ will require States and local governments (including State and local government entities, -agencies, and -officials), with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2018 OJP program under which this certification is being submitted (the "FY 2018 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2018 OJP Program, not to violate, or to aid or abet any violation of, 8 U.S.C. § 1324(a), and not to impede the exercise by federal officers of authority under 8 U.S.C. § 1357(a) or relating to 8 U.S.C. § 1366(1) & (3) or 8 U.S.C. § 1226(a) & (c).
4. I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (*cf.* 34 U.S.C. § 10251(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (*i.e.*, one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
5. I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning both—
 - a. the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2018 OJP Program; and
 - b. any laws, rules, policies, or practices potentially applicable to the "program or activity" sought to be funded under the FY 2018 OJP Program that implicate any of the requirements relating to 8 U.S.C. §§ 1226(a) & (c), 1324(a), 1357(a), & 1366(1) & (3) that are described in ¶ 3 of this certification, whether imposed by a State or local government entity, -agency, or -official.
6. As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any law, rule, policy, or practice that would apply to the "program or activity" to be funded in whole or in part under the FY 2018 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that would or does— (1) violate, or aid or abet any violation of, 8 U.S.C. § 1324(a); (2) impede the exercise by federal officers of authority under 8 U.S.C. § 1357(a); (3) impede the exercise by federal officers of authority relating to 8 U.S.C. § 1366(1) & (3); or (4) impede the exercise by federal officers of authority relating to 8 U.S.C. § 1226(a) & (c).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant entity to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including associated certifications, are subject to review by USDOJ, including by OJP and the USDOJ Office of the Inspector General.

Signature of Chief Legal Officer of the Jurisdiction

Printed Name of Chief Legal Officer

Date of Certification

Title of Chief Legal Officer of the Jurisdiction

Name of Applicant Government Entity (*i.e.*, the applicant to the FY 2018 OJP Program identified below)

FY 2018 OJP Program: Byrne Justice Assistance Grant (JAG) Program: Local

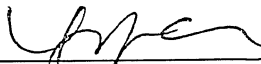
**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

Local Government: FY 2018 Certification of Compliance with 8 U.S.C. §§ 1373 & 1644

On behalf of the applicant government entity named below, and in support of its application, I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

- (1) I am the chief legal officer of the State or local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
- (2) I have carefully reviewed 8 U.S.C. §§ 1373(a) & (b), and 1644, including the prohibitions on certain actions by State and local government entities, -agencies, and -officials regarding information on citizenship and immigration status. I also have reviewed the provisions set out at (or referenced in) 8 U.S.C. § 1551 note ("Abolition ... and Transfer of Functions"), pursuant to which references to the "Immigration and Naturalization Service" in 8 U.S.C. §§ 1373 & 1644 are to be read, as a legal matter, as references to particular components of the U.S. Department of Homeland Security.
- (3) I (and also the applicant entity) understand that the U.S. Department of Justice will require States and local governments (and agencies or other entities thereof) to comply with 8 U.S.C. §§ 1373 & 1644, with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2018 OJP program under which this certification is being submitted (the "FY 2018 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2018 OJP Program.
- (4) I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (*cf.* 34 U.S.C. § 10251(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (*i.e.*, one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
- (5) I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning both—
 - (a) the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2018 OJP Program; and
 - (b) any prohibitions or restrictions potentially applicable to the "program or activity" sought to be funded under the FY 2018 OJP Program that deal with sending to, requesting or receiving from, maintaining, or exchanging information of the types described in 8 U.S.C. §§ 1373(a) & (b), and 1644, whether imposed by a State or local government entity, -agency, or -official.
- (6) As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any prohibition or any restriction that would apply to the "program or activity" to be funded in whole or in part under the FY 2018 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that deals with either— (1) a government entity or -official sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. §§ 1373(a) & 1644; or (2) a government entity or -agency sending to, requesting or receiving from, maintaining, or exchanging information of the types (and with respect to the entities) described in 8 U.S.C. § 1373(b).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. § 10271-10273), and also may subject me and the applicant entity to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDOJ, including by OJP and by the USDOJ Office of the Inspector General.



Signature of Chief Legal Officer of the Jurisdiction

Lonnie T. Elbridge

Printed Name of Chief Legal Officer

2/16/18

Date of Certification

City Attorney

Title of Chief Legal Officer of the Jurisdiction

City of Simi Valley

Name of Applicant Government Entity (*i.e.*, the applicant to the FY 2018 OJP Program identified below)

FY 2018 OJP Program: Byrne Justice Assistance Grant (JAG) Program: Local



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
Expires 11/30/2020

Background

Recipients' financial management systems and internal controls must meet certain requirements, including those set out in the "Part 200 Uniform Requirements" (2.C.F.R. Part 2800).

Including at a minimum, the financial management system of each OJP award recipient must provide for the following:

- (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, and the name of the Federal agency.
- (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program.
- (3) Records that identify adequately the source and application of funds for Federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest, and be supported by source documentation.
- (4) Effective control over, and accountability for, all funds, property, and other assets. The recipient must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- (5) Comparison of expenditures with budget amounts for each Federal award.
- (6) Written procedures to document the receipt and disbursement of Federal funds including procedures to minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement by the OJP recipient.
- (7) Written procedures for determining the allowability of costs in accordance with both the terms and conditions of the Federal award and the cost principles to apply to the Federal award.
- (8) Other important requirements related to retention requirements for records, use of open and machine readable formats in records, and certain Federal rights of access to award-related records and recipient personnel.

1. Name of Organization and Address:

Organization Name: City of Simi Valley
Street1: 2929 Tapo Canyon Road
Street2:
City: Simi Valley
State: CALIFORNIA
Zip Code: 93063

2. Authorized Representative's Name and Title:

Prefix: Mr. First Name: Eric Middle Name:
Last Name: Levitt Suffix:
Title: City Manager

3. Phone: 805-583-6701

4. Fax: 805-526-2489

5. Email: ELevitt@simivalley.org

6. Year Established:
1969

7. Employer Identification Number (EIN):
95-2626170

8. DUNS Number:
0762382110000

9. a) Is the applicant entity a nonprofit organization (including a nonprofit institution of higher education) as described in 26 U.S.C. 501(c)(3) and exempt from taxation under 26 U.S.C. 501(a)? ☐ Yes ☒ No

If "No" skip to Question 10.

If "Yes", complete Questions 9. b) and 9. c).



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
Expires 11/30/2020

AUDIT INFORMATION

9. b) Does the applicant nonprofit organization maintain offshore accounts for the purpose of avoiding paying the tax described in 26 U.S.C. 511(a)?	☐ Yes ☐ No
9. c) With respect to the most recent year in which the applicant nonprofit organization was required to file a tax return, does the applicant nonprofit organization believe (or assert) that it satisfies the requirements of 26 C.F.R. 53.4958-6 (which relate to the reasonableness of compensation of certain individuals)? If "Yes", refer to "Additional Attachments" under "What An Application Should Include" in the OJP solicitation (or application guidance) under which the applicant is submitting its application. If the solicitation/guidance describes the "Disclosure of Process related to Executive Compensation," the applicant nonprofit organization must provide — as an attachment to its application — a disclosure that satisfies the minimum requirements as described by OJP.	☐ Yes ☐ No
For purposes of this questionnaire, an "audit" is conducted by an independent, external auditor using generally accepted auditing standards (GAAS) or Generally Governmental Auditing Standards (GAGAS), and results in an audit report with an opinion.	
10. Has the applicant entity undergone any of the following types of audit(s) (Please check all that apply):	
☒ "Single Audit" under OMB A-133 or Subpart F of 2 C.F.R. Part 200 ☒ Financial Statement Audit ☐ Defense Contract Agency Audit (DCAA) ☐ Other Audit & Agency (list type of audit): ☐ None (if none, skip to question 13)	
11. Most Recent Audit Report Issued: ☒ Within the last 12 months ☐ Within the last 2 years ☐ Over 2 years ago ☐ N/A	
Name of Audit Agency/Firm: <u>Vasquez & Company LLP</u>	
AUDITOR'S OPINION	
12. On the most recent audit, what was the auditor's opinion?	
☒ Unqualified Opinion ☐ Qualified Opinion ☐ Disclaimer, Going Concern or Adverse Opinions ☐ N/A: No audits as described above	
Enter the number of findings (if none, enter "0"): <u>2</u>	
Enter the dollar amount of questioned costs (if none, enter "\$0"): <u>\$ 0</u>	
Were material weaknesses noted in the report or opinion? ☐ Yes ☒ No	
13. Which of the following best describes the applicant entity's accounting system:	
☐ Manual ☒ Automated ☐ Combination of manual and automated	
14. Does the applicant entity's accounting system have the capability to identify the receipt and expenditure of award funds separately for each Federal award?	☒ Yes ☐ No ☐ Not Sure
15. Does the applicant entity's accounting system have the capability to record expenditures for each Federal award by the budget cost categories shown in the approved budget?	☒ Yes ☐ No ☐ Not Sure
16. Does the applicant entity's accounting system have the capability to record cost sharing ("match") separately for each Federal award, and maintain documentation to support recorded match or cost share?	☒ Yes ☐ No ☐ Not Sure



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
Expires 11/30/2020

17. Does the applicant entity's accounting system have the capability to accurately track employees actual time spent performing work for each federal award, and to accurately allocate charges for employee salaries and wages for each federal award, and maintain records to support the actual time spent and specific allocation of charges associated with each applicant employee?	☒ Yes ☐ No ☐ Not Sure
18. Does the applicant entity's accounting system include budgetary controls to preclude the applicant entity from incurring obligations or costs that exceed the amount of funds available under a federal award (the total amount of the award, as well as the amount available in each budget cost category)?	☒ Yes ☐ No ☐ Not Sure
19. Is applicant entity familiar with the "cost principles" that apply to recent and future federal awards, including the general and specific principles set out in 2 C.F.R. Part 200?	☒ Yes ☐ No ☐ Not Sure
PROPERTY STANDARDS AND PROCUREMENT STANDARDS	
20. Does the applicant entity's property management system(s) maintain the following information on property purchased with federal award funds (1) a description of the property; (2) an identification number; (3) the source of funding for the property, including the award number; (4) who holds title; (5) acquisition date; (6) acquisition cost; (7) federal share of the acquisition cost; (8) location and condition of the property; (9) ultimate disposition information?	☒ Yes ☐ No ☐ Not Sure
21. Does the applicant entity maintain written policies and procedures for procurement transactions that – (1) are designed to avoid unnecessary or duplicative purchases; (2) provide for analysis of lease versus purchase alternatives; (3) set out a process for soliciting goods and services, and (4) include standards of conduct that address conflicts of interest?	☒ Yes ☐ No ☐ Not Sure
22. a) Are the applicant entity's procurement policies and procedures designed to ensure that procurements are conducted in a manner that provides full and open competition to the extent practicable, and to avoid practices that restrict competition?	☒ Yes ☐ No ☐ Not Sure
22. b) Do the applicant entity's procurement policies and procedures require documentation of the history of a procurement, including the rationale for the method of procurement, selection of contract type, selection or rejection of contractors, and basis for the contract price?	☒ Yes ☐ No ☐ Not Sure
23. Does the applicant entity have written policies and procedures designed to prevent the applicant entity from entering into a procurement contract under a federal award with any entity or individual that is suspended or debarred from such contracts, including provisions for checking the "Excluded Parties List" system (www.sam.gov) for suspended or debarred sub-grantees and contractors, prior to award?	☒ Yes ☐ No ☐ Not Sure
TRAVEL POLICY	
24. Does the applicant entity:	
(a) maintain a standard travel policy?	☒ Yes ☐ No
(b) adhere to the Federal Travel Regulation (FTR)?	☒ Yes ☐ No
SUBRECIPIENT MANAGEMENT AND MONITORING	
25. Does the applicant entity have written policies, procedures, and/or guidance designed to ensure that any subawards made by the applicant entity under a federal award – (1) clearly document applicable federal requirements, (2) are appropriately monitored by the applicant, and (3) comply with the requirements in 2 CFR Part 200 (see 2 CFR 200.331)?	☐ Yes ☐ No ☐ Not Sure ☒ N/A - Applicant does not make subawards under any OJP awards



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Approved: OMB No. 1121-0329
Expires 11/30/2020

26. Is the applicant entity aware of the differences between subawards under federal awards and procurement contracts under federal awards, including the different roles and responsibilities associated with each?

☐ Yes ☐ No ☐ Not Sure
☒ N/A - Applicant does not make subawards under any OJP awards

27. Does the applicant entity have written policies and procedures designed to prevent the applicant entity from making a subaward under a federal award to any entity or individual is suspended or debarred from such subawards?

☐ Yes ☐ No ☐ Not Sure
☒ N/A - Applicant does not make subawards under any OJP awards

DESIGNATION AS 'HIGH-RISK' BY OTHER FEDERAL AGENCIES

28. Is the applicant entity designated "high risk" by a federal grant-making agency outside of DOJ? (High risk includes any status under which a federal awarding agency provides additional oversight due to the applicant's past performance, or other programmatic or financial concerns with the applicant.)

☐ Yes ☒ No ☐ Not Sure

If "Yes", provide the following:

(a) Name(s) of the federal awarding agency:

(b) Date(s) the agency notified the applicant entity of the "high risk" designation:

(c) Contact information for the "high risk" point of contact at the federal agency:

Name:

Phone:

Email:

(d) Reason for "high risk" status, as set out by the federal agency:

CERTIFICATION ON BEHALF OF THE APPLICANT ENTITY

(Must be made by the chief executive, executive director, chief financial officer, designated authorized representative ("AOR"), or other official with the requisite knowledge and authority)

On behalf of the applicant entity, I certify to the U.S. Department of Justice that the information provided above is complete and correct to the best of my knowledge. I have the requisite authority and information to make this certification on behalf of the applicant entity.

Name: Eric J. Levitt

Date: 2018-08-16

Title: ☐ Executive Director ☐ Chief Financial Officer ☐ Chairman

☒ Other: City Manager

Phone: 805-583-6701

Appendix E

Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)

The Ventura County Sheriff's Office Headquarters Patrol Station is providing the below responses to the following questions as an attachment to the application:

- (1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE? **NO**
- (2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1? **NO**

Captain Todd Inglis

Captain Todd Inglis
Ventura County Sheriff's Office
Headquarters Patrol Station



Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2018

Local Solicitation, Application, Appendix E Responses; attachments.

(1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?

Yes.

(2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1?

Yes.

(3) If yes to either:

- Please provide a copy of each law or policy

Copies of each law or policy below are attached:

California Assembly Bill (AB) 450

California Senate Bill (SB) 54

Simi Valley Police Department Policy 414.

- Please describe each practice

No practices are known to exist other than the laws and policy attached in response to prior questions.

- Please explain how the law, policy, or practice complies with section 1373.

The California laws referenced above are the subjects of a lawsuit entitled, *The United States of America v. State of California, et al.*, Case No. 2:18-cv-490-JAM-KJN (E.D. Cal.). Recently the Court in that matter issued an Order dated 07/05/18 which is attached.

Final resolution of this issue in court will hopefully provide clear guidance regarding section 1373 and compliance with state law.



AB-450 Employment regulation: immigration worksite enforcement actions. (2017-2018)

SHARE THIS:



Date Published: 10/05/2017 09:00 PM

Assembly Bill No. 450

CHAPTER 492

An act to add Sections 7285.1, 7285.2, and 7285.3 to the Government Code, and to add Sections 90.2 and 1019.2 to the Labor Code, relating to employment regulation.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 450, Chiu. Employment regulation: immigration worksite enforcement actions.

Existing law prohibits an employer or other person or entity from engaging in, or to directing another person or entity to engage in, unfair immigration-related practices against a person for exercising specified rights. Existing law defines unfair immigration-related practices for these purposes. Existing law grants the Labor Commissioner access to places of labor and authorizes the commissioner to conduct investigations and prosecute actions in relation to the prescribed duties of the office. Existing law creates the Labor Enforcement and Compliance Fund, moneys in which, upon appropriation by the Legislature, are available to support the Division of Labor Standards Enforcement.

This bill would impose various requirements on public and private employers with regard to federal immigration agency immigration worksite enforcement actions. Except as otherwise required by federal law, the bill would prohibit an employer or other person acting on the employer's behalf from providing voluntary consent to an immigration enforcement agent to enter nonpublic areas of a place of labor unless the agent provides a judicial warrant, except as specified. Except as required by federal law, the bill would prohibit an employer or other person acting on the employer's behalf from providing voluntary consent to an immigration enforcement agent to access, review, or obtain the employer's employee records without a subpoena or court order, subject to a specified exception. The bill would grant the Labor Commissioner or the Attorney General the exclusive authority to enforce these provisions and would require that any penalty recovered be deposited in the Labor Enforcement and Compliance Fund. The bill would prescribe penalties for failure to satisfy the prohibitions described above of \$2,000 up to \$5,000 for a first violation and \$5,000 up to \$10,000 for each subsequent violation, as defined. The bill would specify circumstances for which penalties do not apply.

The bill, except as required by federal law, would require an employer to provide a current employee notice containing specified information, by posting in the language the employer normally uses to communicate employment information, of an inspection of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency within 72 hours of receiving the federal notice of inspection. The bill would require an employer, upon reasonable request, to provide an affected employee a copy of the notice of inspection of I-9 Employment Eligibility Verification forms. The bill would require the Labor Commissioner, by July 1, 2018, to create a template for these purposes and make it available, as specified. The bill would require an employer to provide to an affected current employee, and to the employee's authorized representative, if any, a copy of the written immigration agency notice that provides for the inspection results and written notice of the obligations of the employer and the affected employee arising from the action, as specified. The bill would define affected employee for these purposes. The bill would prescribe penalties for failure to provide the notices of \$2,000

up to \$5,000 for a first violation and \$5,000 up to \$10,000 for each subsequent violation, except as specified, to be collected by the Labor Commissioner.

Except as required by federal law, the bill would prohibit an employer from reverifying the employment eligibility of a current employee at a time or in a manner not required by specified federal law. The bill would prescribe a penalty of up to \$10,000 for a violation of this prohibition to be recoverable by the Labor Commissioner.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7285.1 is added to the Government Code, to read:

7285.1. (a) Except as otherwise required by federal law, an employer, or a person acting on behalf of the employer, shall not provide voluntary consent to an immigration enforcement agent to enter any nonpublic areas of a place of labor. This section does not apply if the immigration enforcement agent provides a judicial warrant.

(b) An employer who violates subdivision (a) shall be subject to a civil penalty of two thousand dollars (\$2,000) up to five thousand dollars (\$5,000) for a first violation and five thousand dollars (\$5,000) up to ten thousand dollars (\$10,000) for each subsequent violation. If a court finds that an immigration enforcement agent was permitted to enter a nonpublic area of a place of labor without the consent of the employer or other person in control of the place of labor, the civil penalty shall not apply. "Violation" means each incident when it is found that subdivision (a) was violated without reference to the number of employees, the number of immigration enforcement agents involved in the incident, or the number of locations affected in a day.

(c) This section shall not preclude an employer or person acting on behalf of an employer from taking the immigration enforcement agent to a nonpublic area, where employees are not present, for the purpose of verifying whether the immigration enforcement agent has a judicial warrant, provided no consent to search nonpublic areas is given in the process.

(d) The exclusive authority to enforce this section is granted to the Labor Commissioner or the Attorney General and enforcement shall be through civil action. Any penalty recovered shall be deposited in the Labor Enforcement and Compliance Fund.

(e) This section applies to public and private employers.

SEC. 2. Section 7285.2 is added to the Government Code, to read:

7285.2. (a) (1) Except as otherwise required by federal law, and except as provided in paragraph (2), an employer, or a person acting on behalf of the employer, shall not provide voluntary consent to an immigration enforcement agent to access, review, or obtain the employer's employee records without a subpoena or judicial warrant. This section does not prohibit an employer, or person acting on behalf of an employer, from challenging the validity of a subpoena or judicial warrant in a federal district court.

(2) This subdivision shall not apply to I-9 Employment Eligibility Verification forms and other documents for which a Notice of Inspection has been provided to the employer.

(b) An employer who violates subdivision (a) shall be subject to a civil penalty of two thousand dollars (\$2,000) up to five thousand dollars (\$5,000) for a first violation and five thousand dollars (\$5,000) up to ten thousand dollars (\$10,000) for each subsequent violation. If a court finds that an immigration enforcement agent was permitted to access, review, or obtain the employer's employee records without the consent of the employer or other person in control of the place of labor, the civil penalty shall not apply. "Violation" means each incident when it is found that subdivision (a) was violated without reference to the number of employees, the number of immigration enforcement agents involved in the incident, or the number of employee records accessed, reviewed, or obtained.

(c) The exclusive authority to enforce this section is granted to the Labor Commissioner or the Attorney General and enforcement shall be through civil action. Any penalty recovered shall be deposited in the Labor Enforcement and Compliance Fund.

(d) This section applies to public and private employers.

SEC. 3. Section 7285.3 is added to the Government Code, to read:

7285.3. In accordance with state and federal law, nothing in this chapter shall be interpreted, construed, or applied to restrict or limit an employer's compliance with a memorandum of understanding governing the use of the federal E-Verify system.

SEC. 4. Section 90.2 is added to the Labor Code, to read:

90.2. (a) (1) Except as otherwise required by federal law, an employer shall provide a notice to each current employee, by posting in the language the employer normally uses to communicate employment-related information to the employee, of any inspections of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency within 72 hours of receiving notice of the inspection. Written notice shall also be given within 72 hours to the employee's authorized representative, if any. The posted notice shall contain the following information:

(A) The name of the immigration agency conducting the inspections of I-9 Employment Eligibility Verification forms or other employment records.

(B) The date that the employer received notice of the inspection.

(C) The nature of the inspection to the extent known.

(D) A copy of the Notice of Inspection of I-9 Employment Eligibility Verification forms for the inspection to be conducted.

(2) On or before July 1, 2018, the Labor Commissioner shall develop a template posting that employers may use to comply with the requirements of subdivision (a) to inform employees of a notice of inspection to be conducted of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency. The posting shall be available on the Labor Commissioner's Internet Web site so that it is accessible to any employer.

(3) An employer, upon reasonable request, shall provide an affected employee a copy of the Notice of Inspection of I-9 Employment Eligibility Verification forms.

(b) (1) Except as otherwise required by federal law, an employer shall provide to each current affected employee, and to the employee's authorized representative, if any, a copy of the written immigration agency notice that provides the results of the inspection of I-9 Employment Eligibility Verification forms or other employment records within 72 hours of its receipt of the notice. Within 72 hours of its receipt of this notice, the employer shall also provide to each affected employee, and to the affected employee's authorized representative, if any, written notice of the obligations of the employer and the affected employee arising from the results of the inspection of I-9 Employment Eligibility Verification forms or other employment records. The notice shall relate to the affected employee only and shall be delivered by hand at the workplace if possible and, if hand delivery is not possible, by mail and email, if the email address of the employee is known, and to the employee's authorized representative. The notice shall contain the following information:

(A) A description of any and all deficiencies or other items identified in the written immigration inspection results notice related to the affected employee.

(B) The time period for correcting any potential deficiencies identified by the immigration agency.

(C) The time and date of any meeting with the employer to correct any identified deficiencies.

(D) Notice that the employee has the right to representation during any meeting scheduled with the employer.

(2) For purposes of this subdivision, an "affected employee" is an employee identified by the immigration agency inspection results to be an employee who may lack work authorization, or an employee whose work authorization documents have been identified by the immigration agency inspection to have deficiencies.

(c) An employer who fails to provide the notices required by this section shall be subject to a civil penalty of two thousand dollars (\$2,000) up to five thousand dollars (\$5,000) for a first violation and five thousand dollars (\$5,000) up to ten thousand dollars (\$10,000) for each subsequent violation. This section does not require a penalty to be imposed upon an employer or person who fails to provide notice to an employee at the express and

specific direction or request of the federal government. The penalty shall be recoverable by the Labor Commissioner.

(d) For purposes of this section, an "employee's authorized representative" means an exclusive collective bargaining representative.

(e) This section applies to public and private employers.

(f) In accordance with state and federal law, nothing in this chapter shall be interpreted, construed, or applied to restrict or limit an employer's compliance with a memorandum of understanding governing the use of the federal E-Verify system.

SEC. 5. Section 1019.2 is added to the Labor Code, to read:

1019.2. (a) Except as otherwise required by federal law, a public or private employer, or a person acting on behalf of a public or private employer, shall not reverify the employment eligibility of a current employee at a time or in a manner not required by Section 1324a(b) of Title 8 of the United States Code.

(b) (1) Except as provided in paragraph (2), an employer who violates subdivision (a) shall be subject to a civil penalty of up to ten thousand dollars (\$10,000). The penalty shall be recoverable by the Labor Commissioner.

(2) The actions of an employer that violate subdivision (a) and result in a civil penalty under paragraph (1) shall not also form the basis for liability or penalty under Section 1019.1.

(c) In accordance with state and federal law, nothing in this chapter shall be interpreted, construed, or applied to restrict or limit an employer's compliance with a memorandum of understanding governing the use of the federal E-Verify system.

SEC. 6. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.



SB-54 Law enforcement: sharing data. (2017-2018)

SHARE THIS:



Date Published: 10/05/2017 09:00 PM

Senate Bill No. 54

CHAPTER 495

An act to amend Sections 7282 and 7282.5 of, and to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of, the Government Code, and to repeal Section 11369 of the Health and Safety Code, relating to law enforcement.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 54, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things and subject to exceptions, prohibit state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, and would, subject to exceptions, proscribe other activities or conduct in connection with immigration enforcement by law enforcement agencies. The bill would apply those provisions to the circumstances in which a law enforcement official has discretion to cooperate with immigration authorities. The bill would require, by October 1, 2018, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. The bill would require, among others, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state that, among others, all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require that a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, submit a report annually pertaining to task force operations to the Department of Justice, as specified. The bill would require the Attorney General, by March 1, 2019, and annually thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require law enforcement agencies to report to the department annually regarding transfers of persons to immigration authorities. The bill would require the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of

limiting the availability of information for immigration enforcement, as specified. The bill would require the Department of Corrections and Rehabilitation to provide a specified written consent form in advance of any interview between a person in department custody and the United States Immigration and Customs Enforcement regarding civil immigration violations.

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools and local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7282 of the Government Code is amended to read:

7282. For purposes of this chapter, the following terms have the following meanings:

- (a) "Conviction" shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.
- (b) "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:
 - (1) All criminal charges against the individual have been dropped or dismissed.
 - (2) The individual has been acquitted of all criminal charges filed against him or her.
 - (3) The individual has served all the time required for his or her sentence.
 - (4) The individual has posted a bond.
 - (5) The individual is otherwise eligible for release under state or local law, or local policy.
- (c) "Hold request," "notification request," and "transfer request" have the same meanings as provided in Section 7283. Hold, notification, and transfer requests include requests issued by the United States Immigration and Customs Enforcement or the United States Customs and Border Protection as well as any other immigration authorities.
- (d) "Law enforcement official" means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.
- (e) "Local agency" means any city, county, city and county, special district, or other political subdivision of the state.
- (f) "Serious felony" means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.
- (g) "Violent felony" means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony as defined by subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 7282.5 of the Government Code is amended to read:

7282.5. (a) A law enforcement official shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or local law, or local policy, and where permitted by the California Values Act (Chapter 17.25 (commencing with Section 7284)). Additionally, the specific activities described in subparagraph (C) of paragraph (1) of subdivision (a) of, and in paragraph (4) of subdivision (a) of, Section 7284.6 shall only occur under the following circumstances:

- (1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code.
- (2) The individual has been convicted of a felony punishable by imprisonment in the state prison.
- (3) The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony for, any of the following offenses:
 - (A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.
 - (B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.
 - (C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.
 - (D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.
 - (E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.
 - (F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.
 - (G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.
 - (H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.
 - (I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.
 - (J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.
 - (K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.
 - (L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).
 - (M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.
 - (N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.
 - (O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.
 - (P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.

(Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

(R) Possession or use of a firearm in the commission of an offense.

(S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.

(T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.

(U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.

(V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.

(W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.

(X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.

(Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.

(Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.

(AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

(AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.

(AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.

(AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.

(AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.

(4) The individual is a current registrant on the California Sex and Arson Registry.

(5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

(6) In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.

(b) In cases in which the individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code, respectively, or a felony that is punishable by imprisonment in state prison, and the magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code, a law enforcement official shall additionally have discretion to cooperate with immigration officials pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 7284.6.

SEC. 3. Chapter 17.25 (commencing with Section 7284) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.25. Cooperation with Immigration Authorities

7284. This chapter shall be known, and may be cited, as the California Values Act.

7284.2. The Legislature finds and declares the following:

- (a) Immigrants are valuable and essential members of the California community. Almost one in three Californians is foreign born and one in two children in California has at least one immigrant parent.
- (b) A relationship of trust between California's immigrant community and state and local agencies is central to the public safety of the people of California.
- (c) This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians.
- (d) Entangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.
- (e) State and local participation in federal immigration enforcement programs also raises constitutional concerns, including the prospect that California residents could be detained in violation of the Fourth Amendment to the United States Constitution, targeted on the basis of race or ethnicity in violation of the Equal Protection Clause, or denied access to education based on immigration status. See *Sanchez Ochoa v. Campbell, et al.* (E.D. Wash. 2017) 2017 WL 3476777; *Trujillo Santoya v. United States, et al.* (W.D. Tex. 2017) 2017 WL 2896021; *Moreno v. Napolitano* (N.D. Ill. 2016) 213 F. Supp. 3d 999; *Morales v. Chadbourne* (1st Cir. 2015) 793 F.3d 208; *Miranda-Olivares v. Clackamas County* (D. Or. 2014) 2014 WL 1414305; *Galarza v. Szalczyk* (3d Cir. 2014) 745 F.3d 634.
- (f) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments.
- (g) It is the intent of the Legislature that this chapter shall not be construed as providing, expanding, or ratifying any legal authority for any state or local law enforcement agency to participate in immigration enforcement.

7284.4. For purposes of this chapter, the following terms have the following meanings:

- (a) "California law enforcement agency" means a state or local law enforcement agency, including school police or security departments. "California law enforcement agency" does not include the Department of Corrections and Rehabilitation.
- (b) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.
- (c) "Immigration authority" means any federal, state, or local officer, employee, or person performing immigration enforcement functions.
- (d) "Health facility" includes health facilities as defined in Section 1250 of the Health and Safety Code, clinics as defined in Sections 1200 and 1200.1 of the Health and Safety Code, and substance abuse treatment facilities.
- (e) "Hold request," "notification request," "transfer request," and "local law enforcement agency" have the same meaning as provided in Section 7283. Hold, notification, and transfer requests include requests issued by United States Immigration and Customs Enforcement or United States Customs and Border Protection as well as any other immigration authorities.
- (f) "Immigration enforcement" includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.
- (g) "Joint law enforcement task force" means at least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.
- (h) "Judicial probable cause determination" means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes

a law enforcement officer to arrest and take into custody the individual.

(i) "Judicial warrant" means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

(j) "Public schools" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board, the California State University, and the California Community Colleges.

(k) "School police and security departments" includes police and security departments of the California State University, the California Community Colleges, charter schools, county offices of education, schools, and school districts.

7284.6. (a) California law enforcement agencies shall not:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:

(A) Inquiring into an individual's immigration status.

(B) Detaining an individual on the basis of a hold request.

(C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

(D) Providing personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.

(E) Making or intentionally participating in arrests based on civil immigration warrants.

(F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(G) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

(2) Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(3) Use immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

(4) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.

(5) Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.

(6) Contract with the federal government for use of California law enforcement agency facilities to house individuals as federal detainees, except pursuant to Chapter 17.8 (commencing with Section 7310).

(b) Notwithstanding the limitations in subdivision (a), this section does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that may be subject to the enhancement specified in Section 1326(b)

(2) of Title 8 of the United States Code and that is detected during an unrelated law enforcement activity. Transfers to immigration authorities are permitted under this subsection only in accordance with paragraph (4) of subdivision (a).

(2) Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined in subdivision (f) of Section 7284.4.

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(C) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject.

(4) Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to Section 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code or to comply with Section 922(d)(5) of Title 18 of the United States Code.

(5) Giving immigration authorities access to interview an individual in agency or department custody. All interview access shall comply with requirements of the TRUTH Act (Chapter 17.2 (commencing with Section 7283)).

(c) (1) If a California law enforcement agency chooses to participate in a joint law enforcement task force, for which a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis, it shall submit a report annually to the Department of Justice, as specified by the Attorney General. The law enforcement agency shall report the following information, if known, for each task force of which it is a member:

(A) The purpose of the task force.

(B) The federal, state, and local law enforcement agencies involved.

(C) The total number of arrests made during the reporting period.

(D) The number of people arrested for immigration enforcement purposes.

(2) All law enforcement agencies shall report annually to the Department of Justice, in a manner specified by the Attorney General, the number of transfers pursuant to paragraph (4) of subdivision (a), and the offense that allowed for the transfer, pursuant to paragraph (4) of subdivision (a).

(3) All records described in this subdivision shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

(d) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's Internet Web site.

(e) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or

unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters.

7284.8. (a) The Attorney General, by October 1, 2018, in consultation with the appropriate stakeholders, shall publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, public libraries, health facilities operated by the state or a political subdivision of the state, courthouses, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. All public schools, health facilities operated by the state or a political subdivision of the state, and courthouses shall implement the model policy, or an equivalent policy. The Agricultural Labor Relations Board, the Division of Workers' Compensation, the Division of Labor Standards Enforcement, shelters, libraries, and all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy.

(b) For any databases operated by state and local law enforcement agencies, including databases maintained for the agency by private vendors, the Attorney General shall, by October 1, 2018, in consultation with appropriate stakeholders, publish guidance, audit criteria, and training recommendations aimed at ensuring that those databases are governed in a manner that limits the availability of information therein to the fullest extent practicable and consistent with federal and state law, to anyone or any entity for the purpose of immigration enforcement. All state and local law enforcement agencies are encouraged to adopt necessary changes to database governance policies consistent with that guidance.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), the Department of Justice may implement, interpret, or make specific this chapter without taking any regulatory action.

7284.10. (a) The Department of Corrections and Rehabilitation shall:

(1) In advance of any interview between the United States Immigration and Customs Enforcement (ICE) and an individual in department custody regarding civil immigration violations, provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(2) Upon receiving any ICE hold, notification, or transfer request, provide a copy of the request to the individual and inform him or her whether the department intends to comply with the request.

(b) The Department of Corrections and Rehabilitation shall not:

(1) Restrict access to any in-prison educational or rehabilitative programming, or credit-earning opportunity on the sole basis of citizenship or immigration status, including, but not limited to, whether the person is in removal proceedings, or immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

(2) Consider citizenship and immigration status as a factor in determining a person's custodial classification level, including, but not limited to, whether the person is in removal proceedings, or whether immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

7284.12. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. Section 11369 of the Health and Safety Code is repealed.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing

**Policy
414****Simi Valley Police Department
POLICY MANUAL**

Immigration Violations

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Simi Valley Police Department relating to immigration and interacting with federal immigration officials.

414.2 POLICY

It is the policy of the Simi Valley Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

414.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

414.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

414.5 DETENTIONS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 UCS § 1326(a) (unlawful reentry) that may be subject to enhancement may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

Simi Valley Police Department

POLICY MANUAL

Immigration Violations

An officer shall not detain any individual, for any length of time, for any other criminal violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

414.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a), the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

414.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

414.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

414.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state penitentiary.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

Simi Valley Police Department

POLICY MANUAL

Immigration Violations

- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

414.7.2 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist:

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

414.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). A law enforcement certification for a U visa may be completed by an officer in order for a U visa to be issued.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by an officer in order for a T visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigative Services Division Deputy Chief. The Deputy Chief will confer with the Detective Bureau supervisor assigned to oversee the handling of any related case.

The Police Department shall only review Visa requests on cases that were not submitted to the District Attorney's Office for review/filing or which the District Attorney's Office declined to prosecute.

Visa requests for cases that were filed or prosecuted by the District Attorney's Office shall be returned to the requesting party with instructions that the request be submitted to the District Attorney's Office.

The Deputy Chief may confer with the City Attorney on whether to approve the request for a U-Visa.

414.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for

Simi Valley Police Department
POLICY MANUAL

Immigration Violations

indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

414.8.2 REPORTING TO LEGISLATURE

The Detective Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

414.9 TRAINING

The Training Coordinator should ensure that all appropriate members receive training on immigration issues.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

FY 2018 Edward Byrne Justice Assistance Grant (“JAG” Grant)

Chief Scott Whitney
Assistant Chief Jason Benites
Assistant Chief Eric S. Sonstegard

Edward Byrne Memorial Justice Assistance Grant

- This item is a recommendation that the City Council authorize the execution and submission of a grant application for the US DOJ grant funds in the amount of \$106,112 from the Edward Byrne Memorial Justice Assistance Grant (commonly known as “JAG grants”) formula program.

Edward Byrne Memorial Justice Assistance Grant

- This is a non-competitive grant. The formula used for determining how much each city receives is based on the jurisdiction's proportion of the state's 3-year violent crime average.
- As the county's jurisdiction with the largest allocation, Oxnard serves as the lead agency and will coordinate administrative functions such as maintaining grant files, submitting quarterly reports, and ensuring compliance of Federal regulations.

Edward Byrne Memorial Justice Assistance Grant

- Funds from this grant can be used to improve or enhance law enforcement programs and preserve and/or create jobs, which may include equipment/supplies, training, personnel, and/or contractual support.
- Grantees may utilize JAG funds for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice. The grant's monies may not supplant or replace funds that have been appropriated for the same purpose.

Edward Byrne Memorial Justice Assistance Grant

- The Oxnard Police Department has applied its \$65,153 share of JAG funding towards the following projects:
 - Electronic Citation Devices (\$42,000)
 - Community Cameras (\$23,000)

QUESTIONS?



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Report

AGENDA ITEM NO.: 1

DATE: October 2, 2018

TO: City Council

FROM: Rosemarie Gaglione
Public Works Director

SUBJECT: Approval of the Release of Seabridge CFD Escrow Funds. (5/10/5)

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

RECOMMENDATION:

That the City Council

1. Approve the release of the \$250,000 deposit paid by the Developer of the Seabridge Community Facilities District (CFD), and accumulated interest, to the City of Oxnard based upon the findings of the City's water quality expert that the thresholds of water quality have fallen below the Generally Accepted State Standards per the Seabridge Development Agreement;
2. Authorize a reimbursement from Seabridge Development Deposit Z43801 to Seabridge CFD#4 (Fund 173) for expenditures related to water quality issue in amount of \$68,930; and
3. Authorize a budget appropriation for Seabridge CFD#4 (Fund 173) in the amount of \$68,930 for expenditures related to water quality issue.

BACKGROUND

In June 2018, the Channel Islands Harbor experienced a significant water degradation event, believed to be an algal bloom, resulting in brown, murky water, poor overall water quality conditions and some marine life death. City staff quickly mobilized, forming a response team, setting up a hotline number for the public, and performing daily water quality testing. Of particular concern were the dissolved oxygen readings, as they were well below acceptable levels and, in fact, resulted in some fish death.

Low dissolved oxygen concentrations are typically caused by the decomposition of algal biomass following an algal bloom, or during the decomposition of non-living organic matter (e.g. dead animals or discharged organic waste). Low dissolved oxygen levels are exacerbated by high

water temperatures as the amount of oxygen dissolved in water decreases as temperature rises. Dissolved oxygen is a critical parameter for the health of all animals, and many desirable microbial species. Dissolved oxygen concentrations $>7-8$ mg/L (typical maximal values are ≈ 10 mg/L) are generally considered acceptable for many marine species. Values below 4-5 mg/L are considered stressful for many marine and freshwater organisms. Values below 1-2 mg/L are considered critically low, and can result in massive die-offs of fish and marine invertebrates if they are maintained even for a few hours. Any animal death occurring at such low dissolved oxygen levels can rapidly lead to complete loss of dissolved oxygen, due to the rapid decomposition of dead animal biomass by bacteria (which uses dissolved oxygen), which is known as the biochemical oxygen demand. Benthic (bottom-dwelling) animal species are particularly at risk during periods of low dissolved oxygen because dissolved oxygen concentrations typically decrease deeper in the water, and many of those species are less mobile and therefore cannot move out of the impacted area. If dissolved oxygen is depleted to 0 mg/L, additional problems can develop in the ecosystem. For example, in the absence of sufficient dissolved oxygen, bacteria will convert sulfate in the water to sulfide, which is toxic to animals and also causes significant odor problems.

Based upon the test results on samples collected during this seven-day period, the dissolved oxygen levels in the back basin between the Seabridge and Westport Community Facilities Districts were well below the 5 mg/L threshold and, on several occasions, were below 1 mg/L. These depressed concentrations have continued to occur intermittently through August as measured by the remote sensing device deployed on August 6 as well as manual testing performed by City of Oxnard staff.

As part of the approval process for the Seabridge development, the City of Oxnard entered into the Seabridge Development Agreement with Oly Mandalay Bay General Partnership on February 4, 2003. A portion of the development agreement discussed water quality and monitoring requirements. Specifically, according to Section 12(h)(iv) of the Seabridge Development Agreement:

“If the level of DO [dissolved oxygen] falls to below the level of the mean value of the six sampling stations or if the bacteria levels rise above the MPN numbers three times during one year, and if those instances are determined to be problems isolated to the area of the shallow bay, as opposed to conditions that affect a substantial portion of the waterways, and if recommended by a recognized expert in the field of water quality (as determined by the Maintenance Community Facilities District), then aerators and/or pumps would be installed in the vaults as discussed in Section 12(d), or other corrective measures approved by the City would be taken.”

Additionally, the City required the developer to pay \$250,000 for the installation of circulating pumps and aerators. Specifically, per Section K(d) of the Seabridge Development Agreement:

“The Water Study, also, identified the most efficient alternative for remediating water quality degradation below Generally Accepted State Standards (the “Remediation Measure”), should the water quality in the waterways, or any of them, degrade below Generally Accepted State

Approval of the Release of Seabridge CFD Escrow Funds (5/10/5)

October 2, 2018

Page 3

Standards, and the reasonably estimated cost of implementing the Remediation Measure (the “Remediation Cost”. The Seabridge Percentage Share of the Remediation Cost shall be calculated in the same manner as the Seabridge Pro Rata Share, defined in Section 1.32. The Remediation Measure includes the placement and operation of recirculating pumps and aerators in vaults to be located within the shallow recreation bay, to be part of the Seabridge Waterways. As a Project condition, and not as a mitigation measure, City has required and Developer has agreed that, as part of the initial construction of the Seabridge Waterways, in the course of construction of the Project, Developer shall construct the vaults, designed to house the circulating pumps, in the Seabridge Waterway, and, at the time that all of the Seabridge Waterways are accepted by City, shall pay to City, the amount of \$250,000, which the parties agree would be sufficient to install the circulating pumps and aerators, should water quality within the waterways degrade below Generally Accepted State Standards, as determined under Section 12(h).”

On July 5, 2018, the City entered into an agreement with Scott Johnson, Scientist with Aquatic Bioassay and Consulting Laboratories, in coordination with Dr. Dave Caron, USC Professor of Biological Sciences to assist the City with the ongoing efforts with this issue. Based upon the test results described above, it is their expert opinion that the water quality thresholds outlined within the Seabridge Development Agreement have been met. It is also their expert opinion that these results are below the Generally Accepted State Standards, which means standards promulgated by the State of California or its appropriate State agency with respect to water flows and water quality for coastal harbors. Attached is a letter from the City’s consultants to that affect.

City staff is requesting the release of the \$250,000 plus interest to be utilized by the Seabridge CFD for water quality remediation measures. A portion of these funds totaling \$68,929.97 will be utilized to reimburse the Seabridge CFD for expenditures already incurred in the current FY 18/19 budget as well as anticipated expenditures for the water quality issue as follows:

1 High Flow Air 7TM diffuser style aeration system	\$14,298.47
1 RBRCconcerto C.T.chi-aOOD/Wifi Remote Sensor	\$24,980.00
Electrical costs for running aerators	\$ 2,500.00
Completion of a Nutrient Study (pro rata share)	<u>\$27,151.50</u>
	\$68,929.97

Additional funds will be utilized within the boundaries of the Seabridge CFD for remediation efforts. Outreach will begin once remediation options are identified. City staff will return to the City Council for any additional expenditures requests.

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

Approval of the Release of Seabridge CFD Escrow Funds (5/10/5)

October 2, 2018

Page 4

There is no impact on the City's General Fund. The development deposits in amount of \$250,000 are currently being held and tracked via Project Z43801 Seabridge Waterway TR5266 Trust Account. The current interest earned on deposit to date is \$37,069. With approval of this item, \$68,930 will be utilized to reimburse the Seabridge CFD for expenditures already incurred for the water quality issue and to fund a portion of the nutrient study in the Channel Islands Harbor. City staff will return to the City Council for any additional expenditure requests.

Prepared by Sandra Burkhardt, Special Districts Manager

ATTACHMENTS:

Attachment A - Aquatic Bioassay and Consulting Letter

Attachment B: BA Seabridge Developer's Deposit

Date: August 29th, 2018

To: Sandra Burkhart
City of Oxnard
Special Districts Manager

From: Scott Johnson
Aquatic Bioassay & Consulting Laboratories, Inc.
Laboratory Director/Senior Scientist



Beginning on June 23, 2018, the City of Oxnard, in consultation with Aquatic Bioassay and Consulting Laboratories, Inc., began testing water quality in the Channel Islands Harbor after receiving numerous complaints about brown, murky water. Twenty-five locations were sampled all across the Channel Islands Harbor on a daily basis for seven consecutive days, and additional testing has occurred since that time.

According to Section 12(h)(iv) of the Seabridge Development Agreement dated February 4, 2003:

“If the level of DO [dissolved oxygen] falls to below the level of the mean value of the six sampling stations or if the bacteria levels rise above the MPN numbers three times during one year, and if those instances are determined to be problems isolated to the area of the shallow bay, as opposed to conditions that affect a substantial portion of the waterways, and if recommended by a recognized expert in the field of water quality (as determined by the Maintenance Community Facilities District), then aerators and/or pumps would be installed in the vaults as discussed in Section 12(d), or other corrective measures approved by the City would be taken.

Based upon the test results collected during this seven-day period, the dissolved oxygen levels in the back basin between the Seabridge and Westport Community Facilities Districts was well below the 5 mg/L threshold and on several occasions, were below 1 mg/L. These depressed concentrations have continued to occur intermittently through August as measured by the remote sensing device deployed on August 6 as well as manual testing performed by City of Oxnard staff.

Based upon the test results described above, it is our expert opinion that the thresholds outlined within the Seabridge Development Agreement have been met. It is also our expert opinion that these results are below the Generally Accepted State Standards, which means standards promulgated by the State of California or its appropriate State agency with respect to water flows and water quality for coastal harbors.

Sincerely,



Scott C. Johnson



Scott Johnson

Laboratory Director, Senior Scientist

scott@aquaticbioassay.com • (805) 643-5621 x11

29 north olive • ventura • ca 93001

www.aquaticbioassay.com

REQUEST FOR BUDGET APPROPRIATION

Department: Public Works
 Project/Program _____
 Manager: Sandra Burkhart

Date: October 2, 2018
 Phone: (805) 385-7496

Reason for Appropriation:

1) Transfer of \$68,930 from Seabridge Developer's Deposit Z43801 to reimburse Seabridge Maint CFD#4 for water quality related expenditures incurred and anticipated 2) appropriate funding to CFD #4

Accounts and Descriptions**AMOUNT**

Fund: 541 - CASH DEPOSIT TRUST FUND

Revenues/Transfers In

541-4391-581.75-15	MISCELLANEOUS REVENUES / OTHER REIMBURSEMENT	(68,930)
	Sub-total Revenues	(68,930)

	Net Change to Fund Balance	(68,930)
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Fund: 173 - CFD #4-SEABRIDGE MAINT.FD

Revenues/Transfers In

173-1901-581.75-19	MISCELLANEOUS REVENUES / OTHER REIMBURSEMENT	68,930
	Sub-total Revenues	68,930

Expenditures/Transfers Out

173-1606-805.82-29	CONTRACTS & SERVICES / PROF SRVC-SPECIAL PROJ	41,778
173-1606-805.82-09	CONTRACTS & SERVICES / SVCS-OTHER PROF/CONTRACT	27,152
	Sub-total Expenditures	68,930

	Net Change to Fund Balance	0
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	Net Appropriation Change	68,930
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Approvals

Department Director _____

Chief Financial Officer _____

City Manager _____

APPROVAL OF THE RELEASE OF SEABRIDGE CFD ESCROW FUNDS

Presented to:
City Council

October 2, 2018

BACKGROUND

- In June 2018, the Channel Islands Harbor experienced a water degradation event, resulting in brown, murky water and some marine life death
- City staff quickly mobilized, forming a response team, setting up a hotline number for the public, and performing daily water quality testing in 26 locations across the harbor
- Bacteria samples have been collected on a monthly basis and to date, all results have come back within state limits and there is no threat to healthy and safety

- As part of the approval process for the Seabridge development, the City of Oxnard entered into the Seabridge Development Agreement with Oly Mandalay General Partnership in 2003.
- A portion of the development agreement discussed water quality and monitoring requirements, as well as the requirement for the developer to pay the City \$250,000 for the installation of circulating pumps and aerators.

In order to meet the water quality thresholds established in the Developer Agreement:

- 5 sampling locations were tested for dissolved oxygen, enterococcus, total coliform and fecal coliform
- Once the thresholds were met, this triggered the release of the escrow funds which were to be utilized for remediation measures, specifically:

“if recommended by a recognized expert in the field of water quality (as determined by the Maintenance Community Facilities District), then aerators and/or pumps would be installed in the vaults as discussed in Section 12(d), or other corrective measures approved by the City would be taken.”

- The City required the developer to pay \$250,000 for the installation of circulating pumps and aerators as follows:

“Waterways are accepted by City, shall pay to City, the amount of \$250,000, which the Seabridge parties agree would be sufficient to install the circulating pumps and aerators, should water quality within the waterways degrade below Generally Accepted State Standards, as determined under Section 12(h).”

- Scott Johnson, Scientist with Aquatic Bioassay and Consulting Laboratories, in coordination with Dr. Dave Caron, USC Professor of Biological Sciences stated that it is their expert opinion that the water quality thresholds outlined within the Seabridge Development Agreement have been met.
- Their full recommendation letter is attached to the agenda packet

USE OF A PORTION OF THE SEABRIDGE ESCROW FUNDS

- A portion of these funds totaling \$68,929.97 will be utilized to reimburse the Seabridge CFD for expenditures already incurred in the current FY 18/19 budget as well as anticipated expenditures as follows:

1 High Flow Air diffuser style aeration system	\$14,298.47
1 Wifi Remote Sensor	\$24,980.00
Electrical costs for running aerators	\$2,500.00
Completion of a Nutrient Study (Seabridge share)	<u>\$27,151.50</u>
	\$68,929.97

- City staff will return to the City Council for any additional expenditure requests.

RECOMMENDATION

That the City Council

- Approve the release of the \$250,000 deposit paid by the Developer of the Seabridge Community Facilities District, and accumulated interest, to the City of Oxnard based upon the findings of the City's water quality expert that the thresholds of water quality have fallen below the Generally Accepted State Standards per the Seabridge Development Agreement.
- Authorize a reimbursement from Seabridge Development Deposit Z43801 to Seabridge Maintenance CFD#4 Fund 173 for expenditures related to water quality issue in amount of \$68,930.
- Authorize a budget appropriation for Seabridge CFD#4 Fund 173 in the amount of \$27,152 for the Seabridge CFD portion of a nutrient study in the Channel Islands Harbor.



QUESTIONS



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Report
AGENDA ITEM NO.: 2

DATE: October 2, 2018

TO: City Council

FROM: Ashley Golden
Development Services Director

SUBJECT: Cannabis Land Use Options (15/20/30)

CONTACT: Ashley Golden, Development Services Director
Ashley.Golden@oxnard.org, (805) 385-7882

RECOMMENDATION:

That City Council:

1. Receive a presentation regarding land use and siting (location) options associated with cannabis land uses in zoning designations throughout the City of Oxnard;
2. Direct staff to prepare draft land use and permit regulations that would allow cannabis distribution, manufacturing, and testing/laboratory operations in the City of Oxnard;
3. Review potential indoor and outdoor cannabis cultivation and provide input on land use locations, if any; and
4. Review potential medical and non-medical cannabis dispensary (i.e., retail dispensaries) locations and direct staff to conduct community outreach to solicit input pertaining to proposed dispensary locations in the City of Oxnard.

BACKGROUND

At its June 5, 2018 meeting, the City Council placed a measure on the November 2018 ballot that would impose a cannabis business tax on commercial cannabis uses, if approved by voters. Advancing that ballot measure allows the City to continue its “go slow” approach in considering commercial cannabis uses while preserving the City’s ability to tax cannabis activities if the voters approve the ballot measure and the City Council subsequently authorizes specific commercial cannabis uses and regulations within the City.

On June 26, 2018, the City Council conducted a study session to evaluate the types of cannabis related land 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 Council directed staff to proceed with evaluating the siting and land use regulations associated with the following cannabis related uses: Retail (medical and non-medical), Manufacturing, Distribution, Testing Laboratories, and Cultivation. The staff report for the June 26, 2018 Study Session is attached as Attachment A.

Staff, in consultation with HdL, has evaluated state law, reviewed land use regulations, studied best practices, and is providing recommendations and potential land use locations for five cannabis related land uses in the City.

ANALYSIS

The HdL study prepared for the June 26, 2018 study session indicated that the City of Oxnard could support the following number of each type of commercial cannabis uses:

- 1) Retail dispensaries – 8 to 18
- 2) Manufacturing – 6 to 12
- 3) Distributors – 3
- 4) Testing Labs – 1
- 5) Cultivation – 2

Consistent with the City’s “go slow” approach, staff recommends the following numbers for each type of proposed commercial cannabis uses:

- 1) Retail dispensaries – 8
- 2) Manufacturing – 8
- 3) Distributors – 3
- 4) Testing Labs – 1

Cannabis Business Type	Go Slow Approach Recommended	HdL Feasibility Study Range (June 2018 study)
Retail	8	8-18
Manufacturer	8	6-12
Distributor	3	3
Testing Lab	1	1
Cultivation	2	2

- 5) Cultivation – 2

Land Use Siting Considerations

The State of California stipulates that cannabis related uses cannot be located closer than 600-feet from a sensitive use, which is defined by state law as K-12 schools (including private and charter schools), day care centers, youth centers, and public parks. Local governments, however, are allowed to designate smaller, or larger, buffer zones if these buffer zones are codified in an ordinance. The state will defer to the local government on a buffer zone that differs from the default standard of 600 feet. State law mandates the 600-foot distance be calculated, parcel to parcel (boundary line to boundary line). This means if 600 feet touches any part of a legal parcel, the entire area cannot contain cannabis related uses. State law is silent on the buffer zone from a cannabis use to residential properties; setting that buffer is entirely up to local government.

Based upon the land use considerations and local zoning, staff has prepared various maps to conceptually identify locations where cannabis uses could be located. All maps implement the 600 foot buffer separation requirement stipulated by state law; however staff looked at increasing buffers to 800 feet and even 1000 feet, but the increased buffer only resulted in the removal of two cannabis use areas which was considered negligible.

The maps contained in the staff report are as follows:

- Potential Cannabis Areas Map – Identifies the five potential cannabis types and conceptual locations (Attachment B)
- Manufacturing, Distribution & Testing Map (Attachment C)
- Cultivation Map – Identifies potential indoor or outdoor cultivation areas (Attachment D)
- Retail Dispensary Maps– Identifies potential retail locations (Attachment E) and retail dispensaries in Port Hueneme (see Attachment F)

There are best practices that apply to all five uses, best practices for each of the five uses, and special considerations with cultivation and retail (see Attachment G). Because of the commonalities and best practices with distribution, manufacturing, and testing/laboratory, staff will present information on these three uses as one group. Retail and cultivation will have separate analysis and mapping.

Potential Cannabis Uses and Potential Locations in the City of Oxnard
Distribution, Manufacturing, Testing/Laboratory Operations

The June 2018 HdL study indicated that cannabis manufacturing presented the best opportunity for growing new business and jobs in the City. It also noted that the manufacturing sector was still evolving and expanding, which also presented significant opportunity for innovation, business development, and job growth. Finally, the report noted that due to Oxnard's location directly between the vast greenhouses of Santa Barbara County and the larger consumer base of Los Angeles, Oxnard could be well positioned to attract cannabis distributors as well as testing laboratories.

Distribution is a fundamental component of the cannabis supply chain and involves the procurement, sale, and transport of cannabis and/or cannabis products. Distribution facilities are commonly located in industrially zoned areas. Manufacturing and testing typically involve the preparation, propagation or compounding of cannabis that involves chemicals and materials which are regulated by the state. These uses are typically within industrial zones away from residential areas. .

As identified within Attachment C, Potential Manufacturing, Distribution, & Testing Map – “Potential Industrial Areas”, the identified areas include:

- Rose Santa Clara Corridor Specific Plan area (Business Park and Commercial) – north of US 101, west of N. Rice Ave., and generally east of Paseo Mercado;
- Sakioka Farms Specific Plan area (Industrial and Business Research Park) – south of US 101, east of N. Rice Ave.;
- McInnes Ranch Specific Plan area (Industrial) - south of Sakioka, and north of W. Fifth Street, east of N. Rice Ave.;
- Northfield Seagate (Industrial) – west of N. Rice Ave., north of W. Fifth Street, south of US 101;
- Channel Islands Business Center (Industrial) - south of Wooley Rd., west of S. Rose Ave., and north of E. Channel Island Blvd.;
- Statham Blvd. (Industrial) – west of S. Rose Ave., north of Channel Islands Blvd., east of Rose Ave.; and
- Arcturus (Industrial) – north and south of E. Hueneme Rd., west of Perkins, Ormond Beach area.

The Potential Industrial Areas were identified with consideration to residential land uses, and environmental resources. The boundaries of the Potential Industrial Area uses are no closer than 600 feet from state defined sensitive uses. In some locations, the Potential Industrial Areas are oddly shaped. This is because the 600 foot measurement is from parcel to parcel (boundary line to boundary line) and in some location areas are retained as one parcel with multiple buildings/land uses.

If the City Council gives direction to proceed with regulations with these three cannabis uses, an ordinance containing best practices to address health, safety, and public welfare, as well as land use compatibility will be drafted and presented to Planning Commission and City Council at a future date. Development and permit regulations would also be developed, and in doing so consideration of Specific Plan regulations and business interest would be evaluated. The HdL study indicated that through a “go-slow” approach, the City could feasibly support up to 14 Industrial cannabis land uses. The draft regulations would contain provisions to ensure that no more than 12 industrial uses would be permitted before returning to City Council for further directions and necessary ordinance amendments.

Cultivation

There was generally less unified City Council support for cultivation in the City.

Cultivation is generally divided into four basic categories that are square footage driven: outdoor, indoor, mixed light (may utilize both natural and artificial light), and nursery. A combination of these cultivation techniques may occur at a site. Cultivation licenses allow for activities involved in planting, growing, harvesting, drying, curing, grading, and trimming. Depending upon the cultivation method, the size, location, and setting of cannabis cultivation sites could vary. Cultivation areas are also subject to the 600 foot parcel to parcel buffer. Indoor cultivation is feasible in some of the “Potential Industrial land use” areas. These are identified within Attachment C and D as “All Uses”, and Cultivation Map, respectively.

Staff has identified potential locations where either indoor or outdoor cultivation could occur. The locations are as follows:

- All uses, Attachment D – Rose Santa Clara Corridor Specific Plan and Sakioka Farms Specific Plan areas
- McInnes Ranch Specific Plan area
- Arcturus area

The HdL study notes that it is far more likely that due to Oxnard’s coastal climate and urban environment, cultivation in Oxnard would likely be located indoors. The state licenses cultivation by square footage and in some instances by plant canopy.

Key factors in developing a cannabis cultivation ordinance include regulations to address potential concerns regarding water usage, electricity, odor control measures and security measures. Best practices would need to be designed to address neighborhood and land use compatibility, and will vary depending upon cultivation size and intensity.

The HdL study determined that the cultivation market was generally saturated. The study cautiously recommended that the City could potentially support two cultivation facilities.

Cultivation regulations to address environmental factors such as water and energy usage, and regulations tailored to cultivation size will take more research, analysis, and review of state regulations. For this reason and to utilize lessons learned as a result of implementing the City's cannabis distribution, manufacturing, and testing/laboratory ordinance, staff is recommending that the City Council consider a cannabis cultivation ordinance in the next year.

Retail Dispensaries

At the June 26, 2018 City Council meeting, City Council consensus on advancing regulations to allow medical or non-medical retail cannabis dispensaries was limited. Dispensaries (medical or non-medical) are currently banned within the City of Oxnard (Jan. 26, 2016 - Ord. No. 2898). Through adoption of Ordinance No. 2937 (April 10, 2018), delivery of medical cannabis is permitted with the proper permits.

The retail or "dispensary" component of cannabis land uses is generally the most visible segment of the commercial cannabis industry. As such, retail sales locations have been subject to the most scrutiny.

The City's consultant indicated that the City could support between 8-18 dispensaries; HdL recommended 13 dispensaries (middle range of market feasibility). Staff recommended a "Go Slow" approach and permitting of up to 8 dispensaries within the City.

When considering where dispensaries could potentially be located, staff consulted HdL regarding best practices. HdL indicated that there are benefits associated with locating dispensaries within shopping centers as compared to commercially zoned standalone parcels which are not located within a shopping center. The benefits in locating retail dispensaries in shopping centers with multiple tenants are as follows:

- Easier to regulate businesses when they are located in the same shopping center
- If located in a business park or other commercial complex that is relatively secure, it can be easier for police to monitor (security cameras, etc.)
- Site visits to "one location" advantageous for regulatory/police entity
- Greater convenience for businesses to the degree they can use one another's services
- Effective regulatory tool/zoning arrangement provided no more than one retail outlet is located in a site

Staff has conceptually identified potential retail dispensary locations throughout the City of Oxnard, which is summarized below and is based upon a 600 foot separation requirement from sensitive uses (See Attachment E (Retail Locations/Neighborhoods)). The map identifies more than 8 potential dispensary locations because it is likely some locations will be removed through Council and community input. The map includes commercial shopping centers which meet the 600 foot separation requirement and stand-alone commercial and business and research zoned parcels which also meet the buffer requirements. If Council desires to advance retail dispensary locations in the City, staff recommends implementation of an overlay zone on selected retail dispensary locations to ensure compliance with buffer and other land use requirements.

The shopping centers and commercial parcels are generally as follows:

Shopping Centers:

- Esplanade Shopping Center (General Commercial) - south of U.S. 101, east of Vineyard Ave.;
- RiverPark Specific Plan Area (Specific Plan) – north of 101;
- Big 5 Shopping Center (General Commercial) - south of U.S. 101, west of E. Vineyard Ave.;
- Shopping at the Rose/Rose Ranch – (Business Research Park and Neighborhood Commercial) - south of U.S. 101, west of N. Rose Ave.;
- Rose Santa Clara Corridor Specific Plan area (Business Park and Commercial) – north of US 101, west of N. Rice Ave., and generally east of Paseo Mercado;
- The Palms (Business Research Park) - south of U.S. 101, north of Gonzales Rd.;
- Sakioka Farms Specific Plan area (Industrial and Business Research Park) – south of US 101, east of N. Rice Ave.;
- Airport Property (Business and Research Park and Industrial) – north of W. 5th Street, west of S. Ventura Rd.;
- Airport Marina Shopping Center - (General Commercial) – south of West Fifth Street, east of Victoria Ave.);
- Channel Islands at Ventura Rd. – (General Commercial) – east of S. Ventura Rd., north of Channel Island Blvd.;
- Ventura Rd. and Fifth Street – (General Commercial) - west of Ventura Rd. and north of W. Wooley Rd.;
- Pleasant Valley Rd. and Rose Ave. – (General Commercial) – north of Pleasant Valley Rd. and Rose Ave.;

Stand Alone Commercial Parcels:

- North and South along Saviers Ave. (Commercial)
- Sporadic parcels along Oxnard Blvd. (Commercial)
- US 101 between Rose Ave., and Del Norte Blvd.; and
- Various parcels along W. Fifth Street

Attachment F also identifies the location of retail dispensaries (and potential dispensaries for which occupancy has not yet been secured) in the City of Port Hueneme for context and information on proximity to the City's limits and potential retail locations in the City.

Through development of a local regulatory ordinance, the City would impose best practices to address security, noise, potential odor, loitering, and other common community and operational concerns associated with dispensary uses.

Considering that dispensaries tend to garner the most community input, concern, and scrutiny, staff recommends that community engagement be conducted to secure input regarding the

conceptual dispensary locations. As part of this community engagement process, staff would secure input from neighborhoods as follows:

- Review best practices and secure input on operational measures;
- Discuss quantitative and semi-quantitative buffer provisions and secure community input. For example, does the community support a limit on the number of retail cannabis uses in a shopping center, should there only be one per shopping center, and/or should there be a separation from the retail establishment to the residential neighborhood? Does the community want to evaluate a different sensitive use buffer requirement (different from the state 600 foot requirement)? Should the use be located at predetermined distance apart or should commercial cannabis businesses not be permitted to be on the same site or directly adjacent sites? Should there be a limit on the number of businesses permitted in a shopping center?; and
- What concerns does a particular neighborhood have regarding the potential retail use in their neighborhood?

If the City Council is supportive of considering dispensaries in the City, staff will conduct community engagement over the next six months. This input would then be communicated to the City Council with staff recommendations for dispensary locations and operational standards, also known as best practices. Following City Council input, staff would work with the City's consultant, HdL to develop a dispensary ordinance and application process. This entire process is anticipated to take approximately one year.

Cannabis Businesses – Best Practices

For any regulatory ordinance the City considers, staff will consider lessons learned from other communities and best practices. In addition to required State law provisions, some best practices are generic to all cannabis businesses, regardless of their cannabis business type. As staff advances work on any ordinance, these will be considered and are summarized below:

Examples of Best Practices Relevant to all Cannabis Businesses:

- On-site Security: Require business to have on-site security personnel, licensed by the California Bureau of Security and Investigative Services
- Plan for Community Benefits: In-kind donations to local non-profits or community based organizations; support, financial and otherwise, for local non-profits, civic organizations, parks and recreation
- Emergency Response Plan: Requires plan that includes a fire evacuation plan, addresses robberies/other emergencies
- Properly Monitored Alarm System and yearly inspections
- First Responder Access/Knox Box for all commercial cannabis facilities
- Plan for Cash Handling (Likely: only retail, manufacturing)

Other cannabis business types require best practices unique to the use. These are summarized in Attachment G, Best Practices.

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:

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

Goal 2. Increase transparency with Council, community and staff related to the City's budget and financial management processes.

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 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates employment opportunities, and generates public revenue.

Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

Goal 3. Enhance business retention and attraction.

Objective 3a. Implement an economic development plan for attracting and retaining business.

FINANCIAL IMPACT

There is no immediate financial impact to the City associated with this item. No action is anticipated for this item that would carry any immediate financial impact to the City. As outlined in staff's June 2018 staff report, the precise amount of revenue to be generated by cannabis businesses is based upon the tax rate imposed and number of businesses. This estimate is not inclusive of any delivery tax revenue which could potentially be generated.

Cannabis Land Use Options (15/20/30)

October 2, 2018

Page 10

ATTACHMENTS:

Attachment A: Cannabis Staff Report from June 26 CC meeting

Attachment B: Cannabis Zone Study Map_Potential By Areas

Attachment C: Cannabis Zone Study Map_Manufacture Distribution Testing Map

Attachment D: Cannabis Zone Study Map_Potential Areas Cultivation Map

Attachment E: Cannabis Zone Study Map_Retail and Neighborhood Map

Attachment F: Cannabis Zone Study Map_Cannabis in Oxnard and Port Hueneme Map

Attachment G: Best Practices Condensed



**CITY COUNCIL
AGENDA REPORT**

**TYPE OF ITEM: Appointment
Item**

AGENDA ITEM NO.: 1

DATE: June 26, 2018

TO: City Council

THROUGH: Alexander Nguyen
City Manager

A handwritten signature in black ink, appearing to read "A. Nguyen".

FROM: Ashley Golden
Development Services Director

A handwritten signature in black ink, appearing to read "Ashley Golden".

SUBJECT: Cannabis Study Session (15/15/30)

CONTACT: Ashley Golden, Development Services Director
Ashley.Golden@oxnard.org, (805) 385-7882

RECOMMENDATION:

That City Council:

1. Receive the report from HdL Companies on their Feasibility Study and Fiscal Analysis of the potential cannabis industry in the City of Oxnard; and
2. Provide direction to staff regarding the permitting and regulation of various types of cannabis businesses in the City of Oxnard.

BACKGROUND

On November 8, 2016, California voters passed the Control, Regulate, and Tax Adult use of Marijuana Act ("AUMA") as Proposition 64. AUMA legalized the nonmedical use of cannabis (marijuana) by persons 21 years of age and over, the personal cultivation of up to six cannabis plants per household, and certain commercial cannabis businesses. All commercial cannabis businesses must have a state license in order to operate, but AUMA does not limit the City's authority to adopt and enforce local ordinances regulating or prohibiting state-licensed cannabis businesses.

The City Council has consistently chosen to take a "go slow" approach to exploring the possible regulation of the various types of commercial cannabis businesses, to allow the City to examine and study the experiences of neighboring jurisdictions and other agencies throughout the State,

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 2

as well as to observe how the federal government reacts to California's medical and adult-use cannabis laws.

On April 3, 2018, the Council took action to enact a zone text amendment explicitly banning commercial cannabis activities and to incorporate existing medical cannabis restrictions into the Oxnard City Code. At the same time, the Council revised existing regulations to allow for delivery of medical cannabis within the City from licensed dispensaries with permits from the City.

On June 5th, 2018, the Council voted to place a cannabis tax on the November 6th ballot, which would impose a range of taxes on a variety of commercial cannabis business types, including retail sales, cultivation, manufacturing, distribution, and testing. If approved by the voters, the passing of the tax measure would not automatically permit these cannabis activities within the City, nor would it compel the City to take action to do so. The City would still have the discretion and authority to determine which, if any, of these cannabis business types it wishes to permit, regulate and tax, and which it wishes to ban. In addition, the City would have the discretion to establish tax rates for each type of cannabis business at any rate up to the maximums defined in the measure.

To assist with these discussions, the City retained the services of HdL Companies to conduct a feasibility study to determine the types and numbers of cannabis businesses which would be sustainable in the City of Oxnard, should the City choose to permit them in the future. The City also requested HdL provide a fiscal analysis of the proposed cannabis tax rates to project the amount of annual revenue that permitting each of these business types might generate for the City.

The purpose of the cannabis study session is to gauge the Council's support for cannabis related industry in the City. During the cannabis study session staff will provide a presentation regarding what cannabis related industry the City can support and the fiscal implications of allowing these uses in the City. The Council may choose to direct staff to explore further permitting and regulation of some or all of the cannabis business types being considered.

ANALYSIS

Over the past few months, City staff have been evaluating what types of cannabis permits are currently being issues by the State of California; analyzing the types of potential cannabis industries suitable to operate within the City of Oxnard; meeting with residents and business community members interested in operating retail and laboratory uses in the City; and fielding a number of cannabis related phone calls, typically pertaining to establishing retail uses in the City, laboratory testing opportunities, and cultivation farming.

The types of cannabis industries which could be located in the City include: Retail, Manufacturing, Distribution, Testing Laboratories, and Cultivation. Cannabis cultivation, manufacturing, distribution and retail sales each offer different challenges and opportunities for

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 3

the City. The following summarizes types of cannabis industries, and opportunities for the City to explore.

Cannabis Retailers

As defined by the Bureau of Cannabis Control, a Cannabis Retailer is a person licensed to sell cannabis goods to customers as “a retailer, microbusiness, or nonprofit.” For the purpose of this staff report, no distinction is being made between medical and recreational cannabis use. The retail component of the supply chain is by design the most visible segment of the commercial cannabis industry. As such, retail sales locations have been subject to the most scrutiny. Retail sales locations must be thoughtfully zoned, designed, and constructed in a manner that is suitable for the neighborhood to create the least amount of impact on the surrounding businesses and neighborhood.

Based on the current demand for retailer locations (dispensaries), retail locations can generate substantial revenues compared to other retail establishments within jurisdictions. Cannabis retailers currently generate on average \$933 per square foot, because most retail stores take up much more space than dispensaries. Cannabis retailers stock a lot of product into a relatively small amount of space, and the average price point for cannabis is attractive to consumers.

Summary of Pros and Cons:

1. City has the ability to develop well-defined land use controls and buffers to protect sensitive uses such as schools, parks, etc.
2. City has the ability to limit the overall number of retailers to prevent oversaturation.
3. City has the ability to regulate point of sale, impose inventory control data metrics and conditions, and impose conditions on the volume of inventory on display at a given time.
4. Significant revenue can be realized if the use is well-regulated and taxed at an appropriate level.
5. Revenue can be generated in a less traditional way and in lieu of methods typical of traditional store front retail uses.
6. Poorly trained employees can create inventory tracking problems and liabilities.
7. Combination of all-cash business and significant product on site can pose a public safety hazard for employees and customers.
8. The City has the ability to require security presence up to 24-7 which would result in a net positive public safety effect on the neighborhood.

It is estimated that Oxnard could support between 8 and 18 retailers (combined between medical and recreational), with a midpoint of 13. Retail saturation is based upon a presumed saturation of one retail establishment per 20,000 persons. This saturation rate is based upon data and an analysis of other retail establishments and knowledge of the industry. Should Council wish to allow cannabis retail establishments, staff recommends that City Council take a cautious approach to permitting retailers by starting at the lower retail establishment number of 8. This will help ensure success for these businesses by dividing the same customer base among a

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 4

smaller number of businesses. In addition to limiting the max number of retailers, the regulations would need to include provisions to address the pros and cons listed above.

Cannabis Manufacturers

The Department of Public Health (DPH) defines Manufacturing as “all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products”. Manufacturing also includes “any processing, preparing, holding, or storing of components and ingredients”. The manufacturing sector is still evolving and expanding, which presents significant opportunities for innovation, business development and job growth. In 2017, sales of ready-to-use cannabis products surpassed sales of cannabis flower for the first time, and the trend appears likely to continue into the future. Clear regulatory policies and competitive tax rates will be essential for attracting or holding on to this growing sector. HdL estimates that the City could support between 6 and 12 manufacturers, with a range of sizes. Manufacturing business represents over 50% of all cannabis sales, by price (not volume).

Summary of Pros and Cons:

1. Cannabis manufacturing is on the rise based upon current trends in cannabis use.
2. The City has open land available for industrial expansion and construction. City has the ability to develop zoning compliance and siting provisions to identify appropriate zones.
3. Rigorous regulatory requirements are needed to address employee safety and business operations.
4. Equipment and methods used for cannabis extractions are preexisting and have been utilized in the community for other manufacturing operations.
5. There are large quantities of volatile gases and industrial solvents necessary for the manufacturing process, which poses a hazard risk.
6. Employee security measures and protocols must be developed to address potential employee theft/diversion to the black market.
7. Rigorous testing ensures that consumer safety.
8. Regulations require destruction of any non-compliant or contaminated product.
9. Vacancy rate of industrial buildings is exceptionally low (between 1 – 3%, as of 2016).

Distributors

Distributors are the only licensed business type that can transport inventory between licensed cannabis businesses. Distribution licensees are responsible for securing large quantities of inventory, while ensuring it is properly tested and transported to licensed businesses. Distributors must have expertise in product movement, as well as checking for compliance with packaging and labeling requirements. In addition to transporting inventory between licenses, distribution companies will also be responsible for ensuring the examination of inventory at a testing laboratory and the collection of the State’s excise taxes, before releasing the product to a retailer. Cultivators, manufacturers, and retailers also have the opportunity hold a distribution license as well, provided the distributor’s licensed premises are “separate and distinct”. This is to ensure

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 5

that the various administrative privileges and inventory tracking requirements are strictly adhered to. Pursuant to State requirements, licensed distributors will be required to establish comprehensive security measures to ensure the inventory is secured during transit and accounted for with manifest documentation. Additionally, pursuant to State requirements, distributors will be required to be licensed in a commercial or industrial building, requiring little to no signage or advertisement.

Due to Oxnard's location directly between the vast cannabis greenhouses of Santa Barbara County and the large consumer base of Los Angeles, Oxnard could be well-positioned to attract cannabis distributors. This would especially be the case if the City allowed (and was successful in attracting) a variety of other business types, including cultivators and manufacturers.

Summary of Pros and Cons:

1. City has the ability to develop additional security and inventory control measures for distributors with items stored on-site and transported. This could be considered a pro or con depending upon the City's desire to take on additional responsibility.

Testing Laboratories

As defined by the Bureau of Cannabis Control, Cannabis Testing Laboratories will be required to perform testing on cannabis goods to measure: cannabinoids, foreign material, heavy metals, microbial impurities, mycotoxins, moisture content and water activity, residual pesticides, residual solvents and processing chemicals and terpenoids. Additionally, edible cannabis products that contain more than one serving per unit will be tested for homogeneity to endure consistent concentrations of tetrahydrocannabinol (THC) or cannabidiol (CBD). Upon completion of the test, the laboratory generates a certificate of analysis that contains the results of the testing and whether the tested batch passed or failed. The owners of any testing laboratories are prohibited by law from having any level of ownership in any other type of cannabis business.

The Bureau of Cannabis Control has only issued 28 licenses for testing laboratories in all of California. These laboratories tend to be located in areas with a large amount of both cultivation and manufacturing. Since Oxnard has thus far banned all commercial cannabis activities, it seems unlikely that the City would be home to a testing laboratory in the near future. However, should the City choose to permit, regulate and encourage other cannabis business types, it is certainly possible that it may become an attractive location at some point in the future. Thus far it is assumed the City could support operation of one testing laboratory. The City has received one inquiry for operation of a cannabis testing laboratory in the City.

Summary of Pros and Cons:

1. City has the ability to develop additional security and inventory control measures while items are stored on-site and transported.
2. Testing labs don't have a possessory interest in the cannabis product. No ownership of actual product.

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 6

3. City has the ability to impose more rigorous testing requirements if desired. However, this would require a level of regulatory expertise that most cities don't possess.
4. Testing labs pose lower public safety challenges because they have so little cannabis on the premises compared to other license types that they are far less likely to attract criminal activity, or to become a source of diversion.

Cultivation

Cannabis cultivation is generally divided into four basic categories: outdoor, indoor, mixed light (utilizing both natural and artificial light) and nursery. A combination of these cultivation techniques may occur at a site. Cultivation licenses allow for activities involving planting, growing, harvesting, drying, curing, grading and trimming. Depending on the cultivation method, the size, location, and setting of cannabis cultivation sites could vary.

Neighboring Santa Barbara County has the highest amount of licensed cannabis cultivation in California, but this has been accommodated largely through adaptive reuse of vacant industrial greenhouse infrastructure that Oxnard does not have. Any cannabis cultivation in Oxnard would likely be limited to indoors due to both the coastal climate and the urban environment. Oxnard has a large amount of Light Industrial-zoned properties, mostly located on the eastern edge of the City, with easy access to Highway 101.

The cannabis cultivation market in California has already exceeded its saturation point 3-times over, which suggests that there is not enough room for those growers already licensed, much less new entrants into the market.

Summary of Pros and Cons:

1. Revenue Potential.
2. Potential odor generated by cannabis use.
3. Potential theft/criminal activity.
4. Increase in use of water and electricity.
5. Dependent upon how the facility is designed, potential light pollution and light spill onto adjacent properties for green houses only.
6. Potentially high failure rate due to oversupply which may lead to volatile revenues and vacant properties/buildings.

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:

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

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 7

Goal 2. Increase transparency with Council, community and staff related to the City's budget and financial management processes.

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 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates employment opportunities, and generates public revenue.

Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

Goal 3. Enhance business retention and attraction.

Objective 3a. Implement an economic development plan for attracting and retaining business.

FINANCIAL IMPACT

There is no immediate financial impact to the City associated with this study session item. No action is anticipated for this item that would carry any immediate financial impact to the City. The precise amount of revenue to be generated is based upon the tax rate imposed and number of businesses. This estimate is not inclusive of any delivery tax revenue which could potentially be generated.

If the tax measure does not pass, then there is no tax revenue. The City would have the ability to collect the actual cost associated with the processing of permits, enforcement, inspection, and other legitimate governmental costs related to regulation of specific permittees. The following provides a comprehensive summary of the range of revenue potential:

Business Type	Number	Low tax rate	Revenue	High Tax Rate	Revenue
Retailer	13	4.0%	\$852,733	6.0%	\$1,279,100
Manufacturer	8	2.5%	\$500,000	4.0%	\$800,000
Distributor	3	2.0%	\$150,000	3.0%	\$225,000
Testing Lab	1	1%	\$20,000	2.5%	\$50,000

(5:00 PM Appointment Item) Cannabis Study Session (15/15/30)

June 26, 2018

Page 8

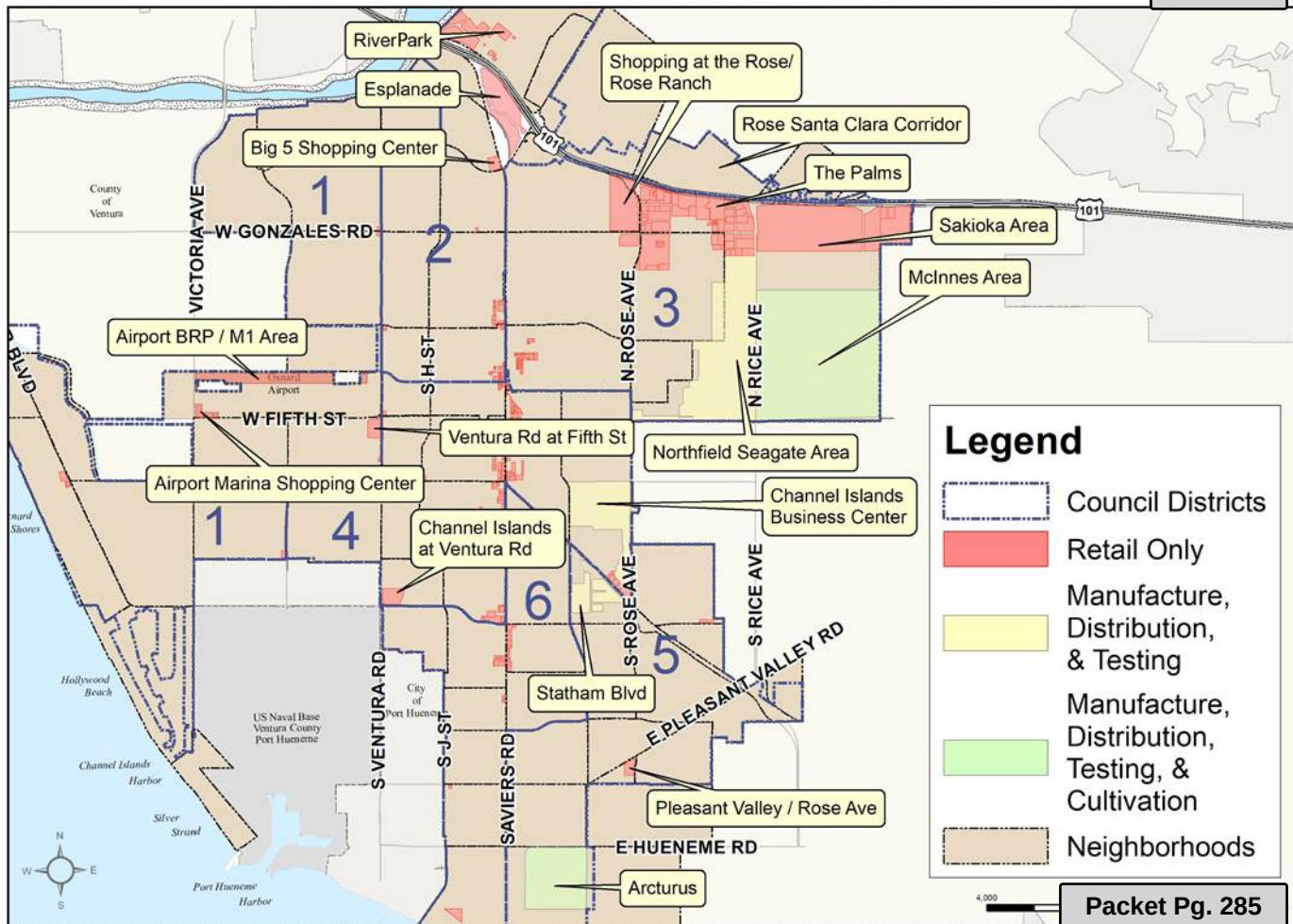
Cultivation	2	1.4%	\$224,000	2.0%	\$320,000
Total			\$1,746,733		\$2,674,100

ATTACHMENTS:

Attachment A: Oxnard Tax and Feasibility Analysis FINAL

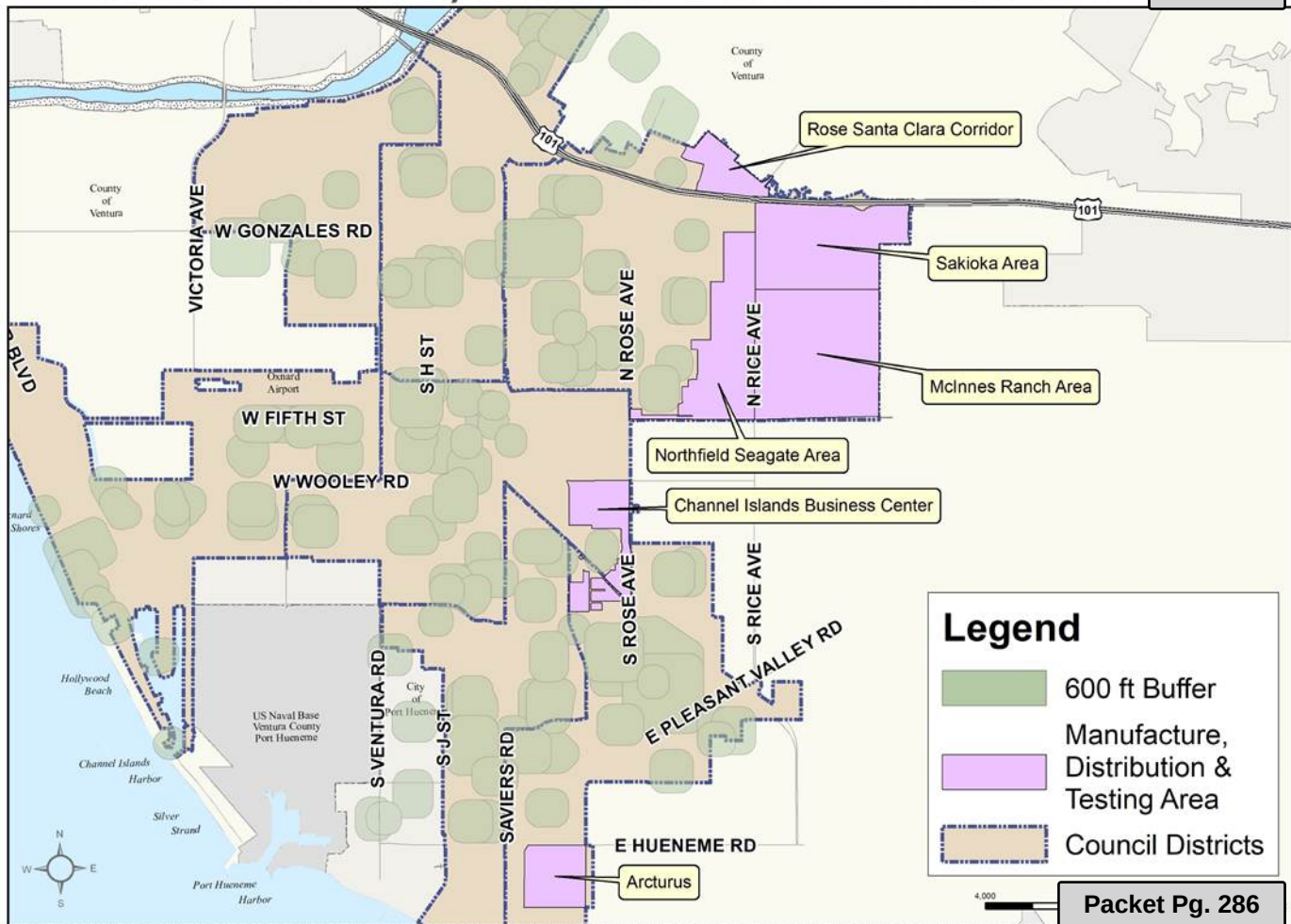
POTENTIAL CANNABIS AREAS

N.2.b



MANUFACTURE, DISTRIBUTION & TESTING MAP

N.2.c



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.

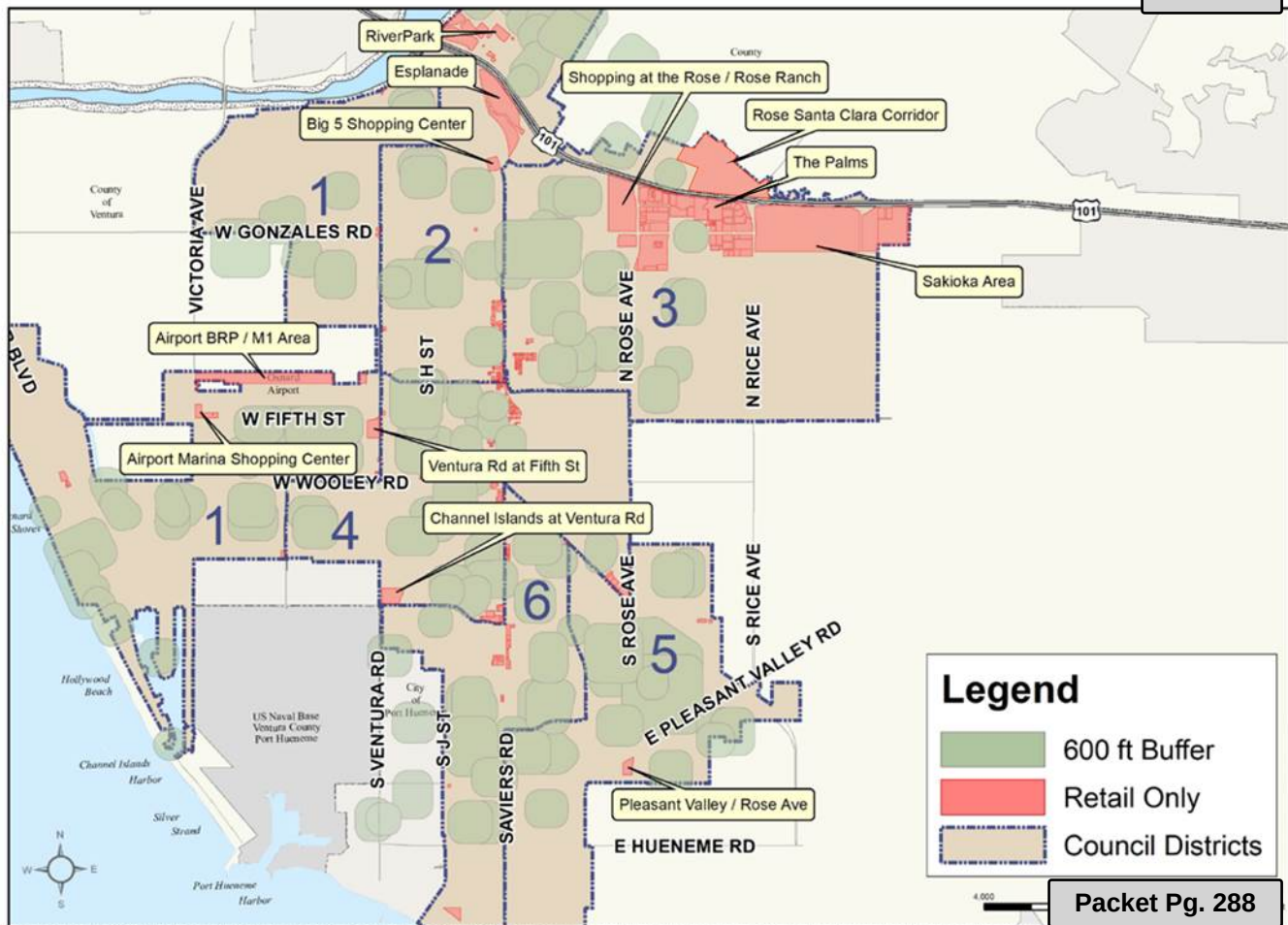
CULTIVATION MAP

N.2.d



RETAIL MAP

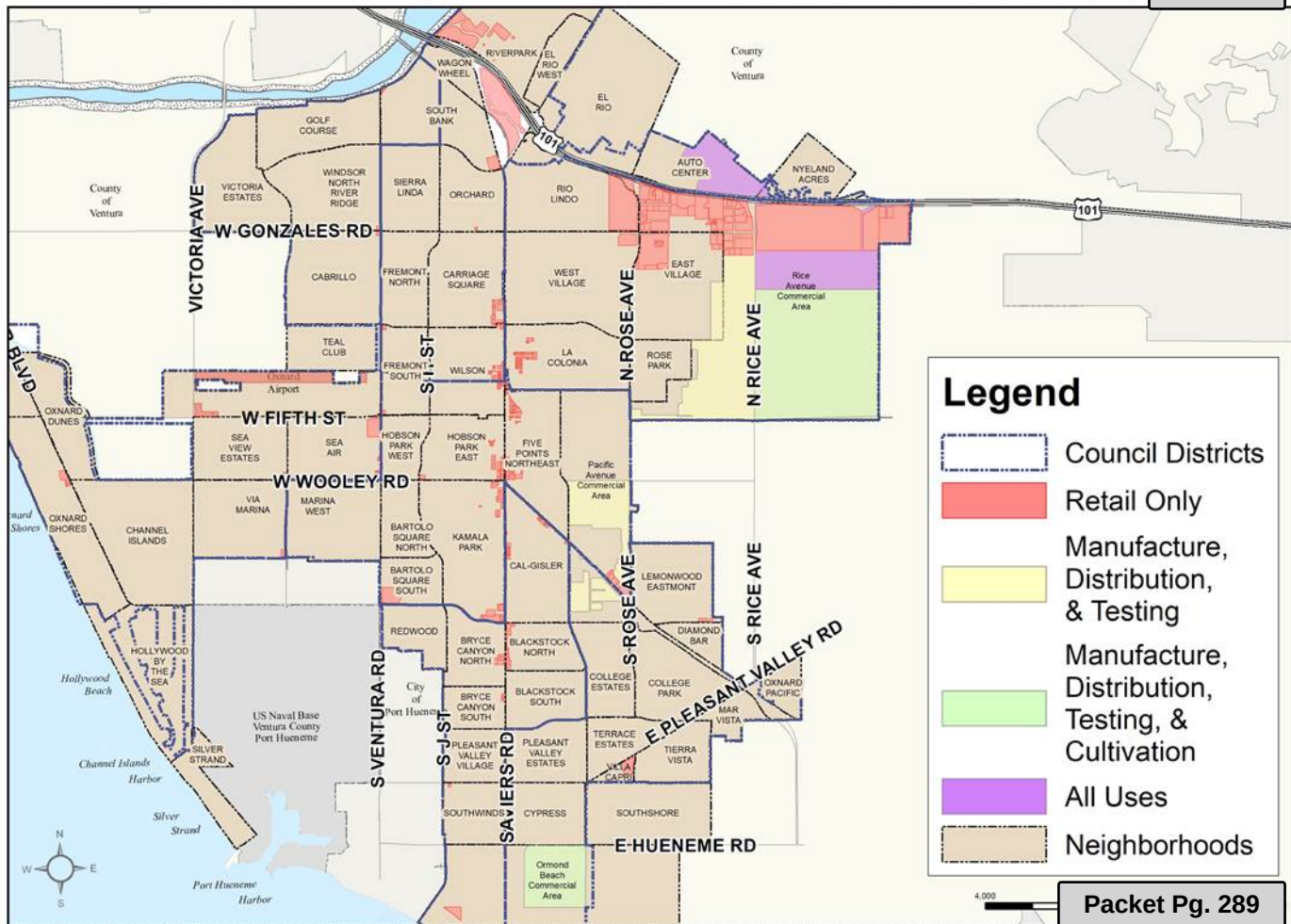
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POTENTIAL CANNABIS BY NEIGHBORHOOD

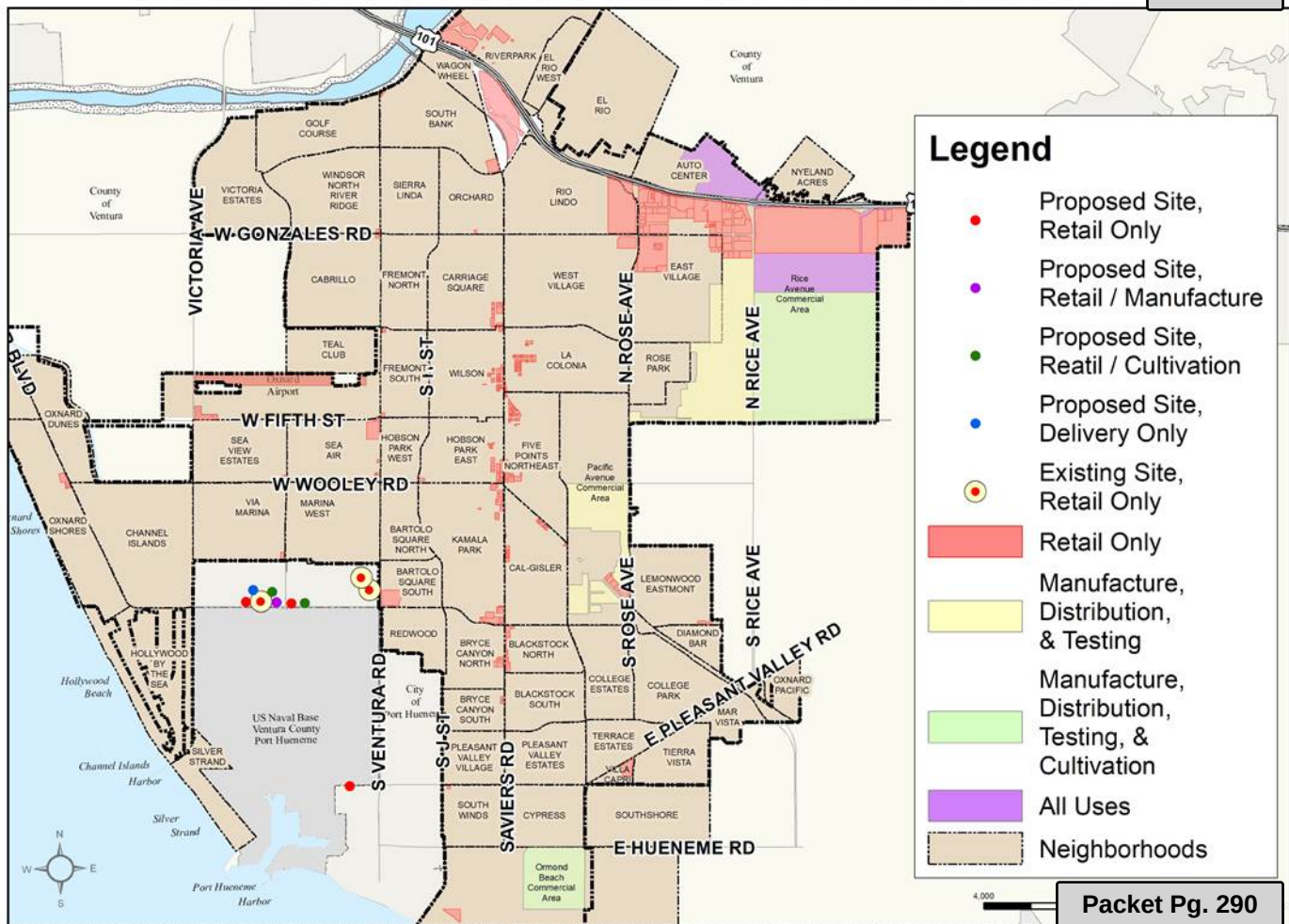
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CANNABIS IN OXNARD & PORT HUENEME

N.2.f



Attachment G Best Practices Cannabis License Types

In addition to required State law provisions, some best practices are generic to all cannabis businesses, regardless of their specialized activity.

Summary of Best Practices Relevant to all Cannabis Businesses:

- On-site Security: Require business to have on-site security personnel, licensed by the California Bureau of Security and Investigative Services.
- Plan for Community Benefits: In-kind donations to local non-profits or community based organizations; support, financial and otherwise, for local non-profits, civic organizations, parks and recreation
- Emergency Response Plan: Requires plan that includes a fire evacuation plan, addresses robberies/other emergencies
- Properly Monitored Alarm System and yearly inspections
- First Responder Access/Know Box for all commercial cannabis facilities
- Plan for Cash Handling (Likely: only retail, manufacturing)

CULTIVATION

Summary of Best Practices:

1. Do not allow outdoor cultivation, to minimize nuisance complaints due to odor
2. Develop a general nuisance odor ordinance, if one is not currently enacted
3. Require Odor Control Plans that identify and contain on-site odors within the CCB
4. Require Renewable Energy Plans
5. Require a Water Management Plan
6. Restrict exterior artificial lighting
7. Require Security Plans that include surveillance camera coverage without blind spots
8. Consider distance requirements from what may be additional sensitive uses, depending on the community (residences, churches, libraries rehabilitation facilities, etc.)

DISTRIBUTION

Summary of Best Practices:

1. Require reporting/verification pertaining to Distributors' responsibilities:
 - a. Goods Movement: Expertise in product movement required; plan for goods movement
 - b. Testing: Responsibility to arrange for testing of cannabis and cannabis products and confirmation of testing results, prior to transportation to any retail location for commercial sale (key to enforcement of state health & safety standards)

- c. Tax Collection: Collection of both state cultivation tax and state excise tax
- d. Verification of adherence to state packaging and labelling requirements
- 2. Allow Distribution operations in Industrial zones (M-L, M-1, M-2); Avoid CIA
- 3. State law prohibits locating within 600 ft of sensitive receptor (schools, day cares, youth centers, parks); consider expanding buffer
- 4. Require the entire distribution facility to be designated as a limited access facility, preventing visitor, contractors or non-employees from entering; consider security escort plan
- 5. Require a secured room plan; approve the safe, vault or secured room prior to issuance of license and prior to building permit issuance
- 6. Inspect the safe, vault or secured room prior to issuance of license
- 7. Require that all vehicles used to transport inventory be equipped with GPS
- 8. Require that a computer-generated manifest occur prior to transportation of inventory
- 9. Prohibit non-authorized employees within vehicles during deliveries to licensed businesses
- 10. Require that inventory be locked and secured in an approved case, safe or cabinet, including when in transit
- 11. Require criminal background check for all employees
- 12. Structure ordinance/permit issuance so that reporting of transport incidents are reported to City and incidents impact renewability of license

MANUFACTURING

Summary of Best Practices:

- 1. Require detailed, full disclosure of the nature of the manufacturing operation as part of the permitting process. If a business plans to conduct volatile extraction, the application and the interview should elicit that information. Some jurisdictions have allowed themselves to be misled into believing the business would be operating a cannabis bakery, when extraction (at that time completely illegal) was occurring on-site.
- 2. For businesses with engaged extraction, reaffirm compliance with the state requirement for a closed loop system. Require submittal of engineered plans reflecting closed loop system.
- 3. Require detailed disclosure and storage plans during the permitting process and through building permit (storage and handling plans for the large quantities of volatile gases and industrial solvents that will be stored on-site).
- 4. Require that all extraction activities occur in a room solely dedicated to the extraction process.
- 5. Require that all waste be disposed of in a manner so that it cannot be detected or used for any other purpose.
- 6. If the business is performing extraction using volatile gases, require that the room be constructed to meet National Fire Protection Association (NFPA) C1-D1 hazardous location classifications.
- 7. Allow cannabis manufacturing operations in light Industrial and manufacturing zones (M-L, M-1 and M-2).

8. State law prohibits locating within 600 ft of sensitive receptor (schools, day cares, youth centers, parks); consider expanding buffer
9. Require installation in the manufacturing facility of fire suppression systems and flammable gas detection devices
10. Require notification of any change to product line and use of extraction solvents
11. Require all extraction equipment be inspected by an industrial hygienist
12. Require all extraction technicians be trained and certified
13. Expressly require the business to include required food handling safety training in Employee handbook, if any of the manufactured products will be cannabis edibles.
14. Require the establishment of clearly defined administrative hold and product recall procedures
15. Require that all employees be subject to a criminal background check.

RETAIL

Summary of Best Practices:

1. Some jurisdictions have opted for Non-Store Front Retail, as it can generate revenue without having traditional store fronts and related public safety concerns
2. Require on-site security officer; part of daily business operations
3. Submittal of verification data for compliance with track-and-trace
4. Require business' to have robust inventory control policy to include regular, systematic inventory checks/reconciliation
5. Require installation of surveillance cameras with zero blind spots
6. Require written cash handling procedures, including plan for periodic deliveries to bank (random times, not regularly scheduled)
7. Allow in Commercial zones (Specific Plan Areas, C-2, BRP – verification with County Dept. of Airports)
8. State law prohibits locating within 600 ft of sensitive receptor (schools, day cares, youth centers, parks); consider expanding buffer
9. Require all inventory (including edibles and concentrates) be locked and secured in a safe, vault or secured room when the business is closed
10. Require that the Standard Operating Procedures provide ongoing point of sale and inventory tracking data entry training to all employees
11. Limit the amount of inventory on display to the equivalent of two days sales (increases inventory accountability and reduces volume of odor)
12. Require the business to assign one individual to the position of inventory manager. Require inventory control plans
13. Require crime prevention through environmental design or CEPTED plan as part of permitting and building permit review
14. Require that all employees be subject to a criminal background check
15. Require that all inventory and sales transactions be reconciled by end of business day
16. Require business to have written training procedures re: point of sale and inventory control data to ensure proper data entry and minimize diversion

TESTING LABORATORIES

Summary of Best Practices:

1. Require testing labs to observe all the mitigation measures listed for the other licensees, particularly with regard to odor control, waste disposal, and routine maintenance of interior and exterior of facility
2. Require a robust security and inventory tracking system to facilitate chain of custody; review and approve plan as part of building permit process
3. Require periodic submittal of documentation for verification of lab's compliance with state standards for testing equipment, specifically in regard to cleaning and calibration
4. Submittal of verification data for compliance with track-and-trace; chain of custody procedures
5. Allow in Light Industrial and Manufacturing zones.
6. State law prohibits locating within 600 ft of sensitive receptor (schools, day cares, youth centers, parks); consider expanding buffer
7. Require testing lab to be designated as a limited access facility, preventing visitor, contractors or non-employees from entering; consider security escort plan
8. Require a secured room plan; approve the safe, vault or secured room prior to issuance of license and prior to building permit issuance
9. Inspect the safe, vault or secured room prior to issuance of license
10. Require that all employees be subject to a criminal background check

Cannabis Land Use Options

Kathleen Mallory
Planning & Environmental Services Manager
Development Services Department

October 2, 2018



- November 8, 2016 - Adult Use Medical Act (AUMU) passed
- April 3, 2018 – Council adopted ordinance banning cannabis use; and allowing delivery of medical cannabis within City
- June 5, 2018 – Council approved placing a cannabis tax on November 2018 General Election ballot

- June 26, 2018 - Council study session evaluated cannabis uses to be permitted in the City
- June 2018 – Fiscal analysis study prepared by HdL presented; Council discussed and provided feedback regarding Retail Dispensaries (medical and non-medical), Manufacturing, Distribution, Testing Laboratories, and Cultivation cannabis uses

BACKGROUND (continued)

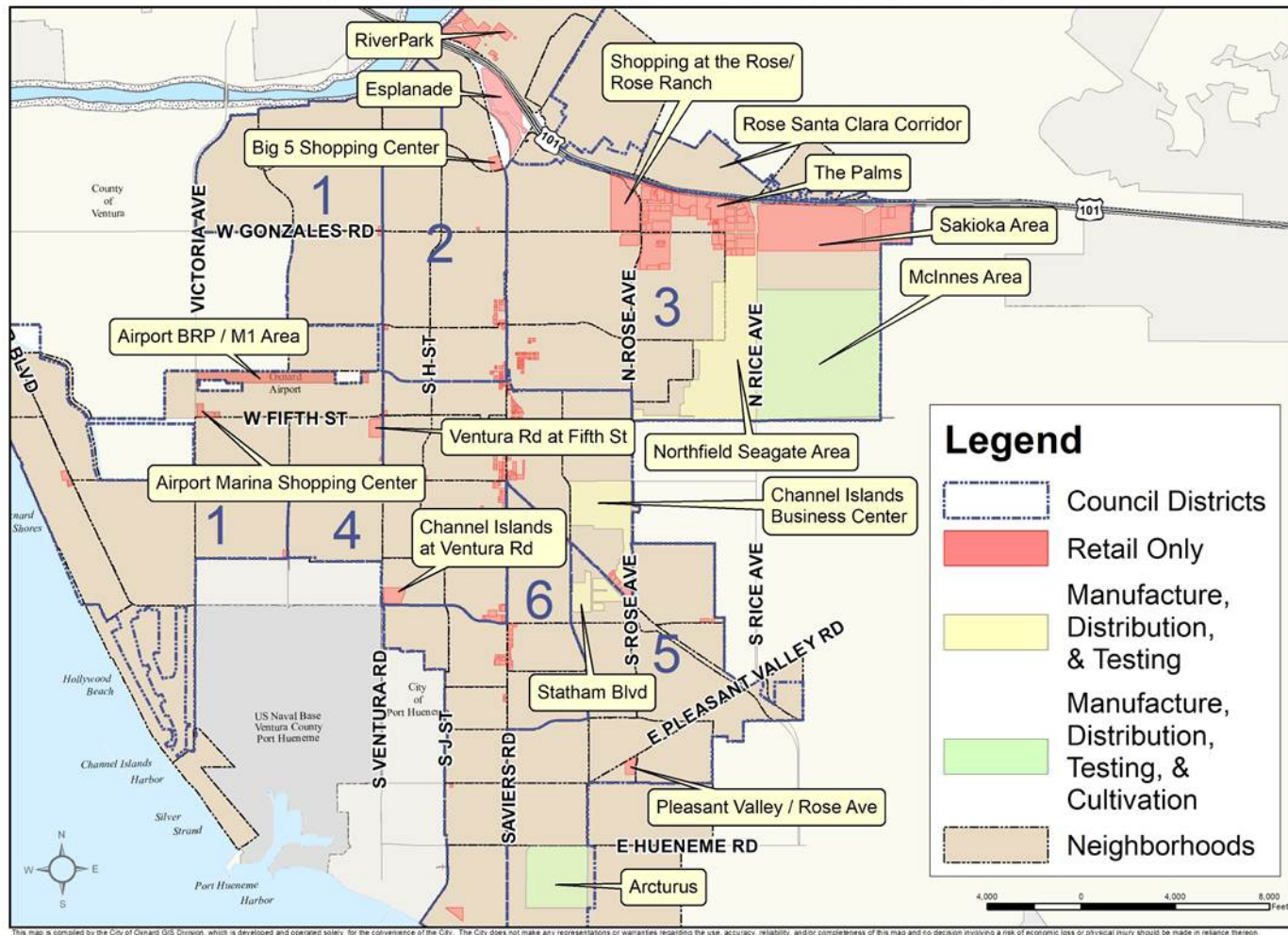
- June 2018 Council staff report evaluated feasibility of various cannabis business types and number of these uses
- Since June evaluation of state law, City land use regulations, zoning, and best practice
- Identification of approach and potential cannabis areas

Cannabis Business Type	Go Slow Approach Recommended Maximum Number	HdL Feasibility Study Range (June 2018 study)
Retail	8	8-18
Manufacturer	8	6-12
Distributor	3	3
Testing Lab	1	1
Cultivation	2	2

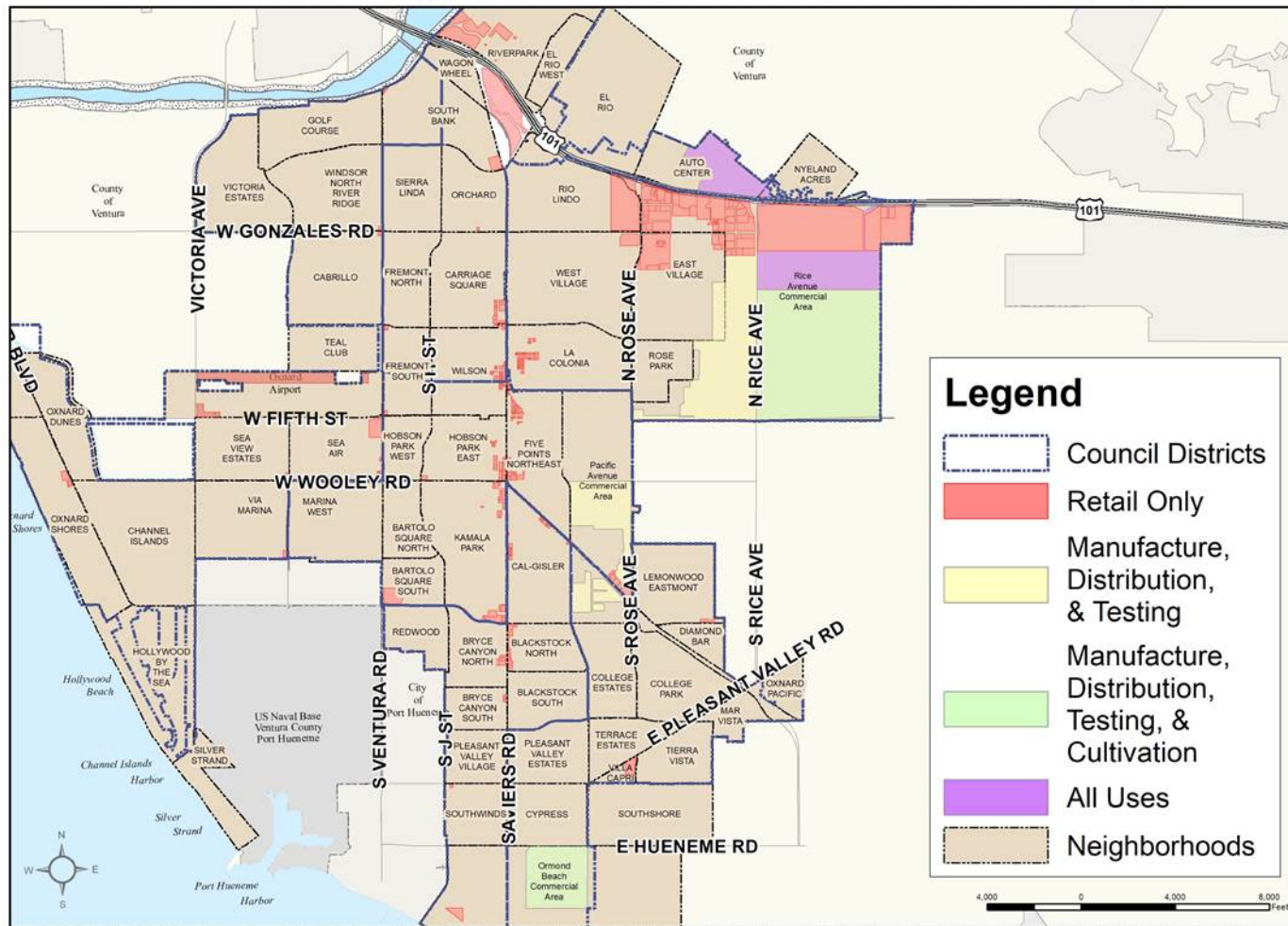
- Per State regulations, any cannabis use cannot be located closer than 600-feet (“buffer”) from a sensitive use.
 - *Sensitive use is a public/private or charter K-12 school, commercial day care center (not family day care), youth center, or public park*
- Measurement is parcel line to parcel line
- 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

- Maps on the following slides identify potential cannabis locations; implements 600-foot State buffer requirement
- Identify retail locations by shopping center and stand alone commercial parcels which meet the definition of feasible commercial parcels
- Commonalities and best practices with cannabis distribution, manufacturing, and testing/laboratories supports analysis as one group
- Retail and cannabis cultivation uses evaluated independently

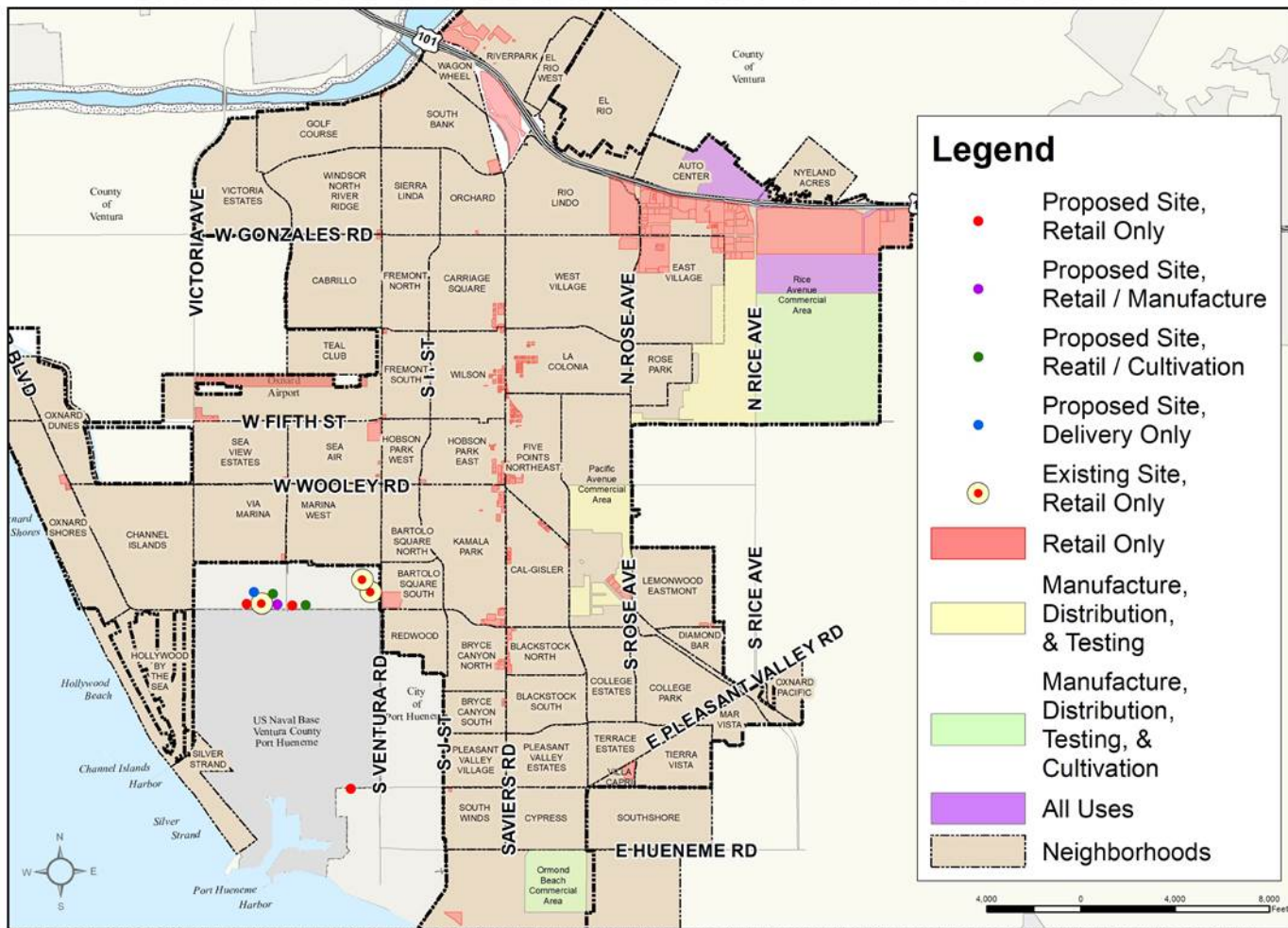
POTENTIAL CANNABIS AREAS



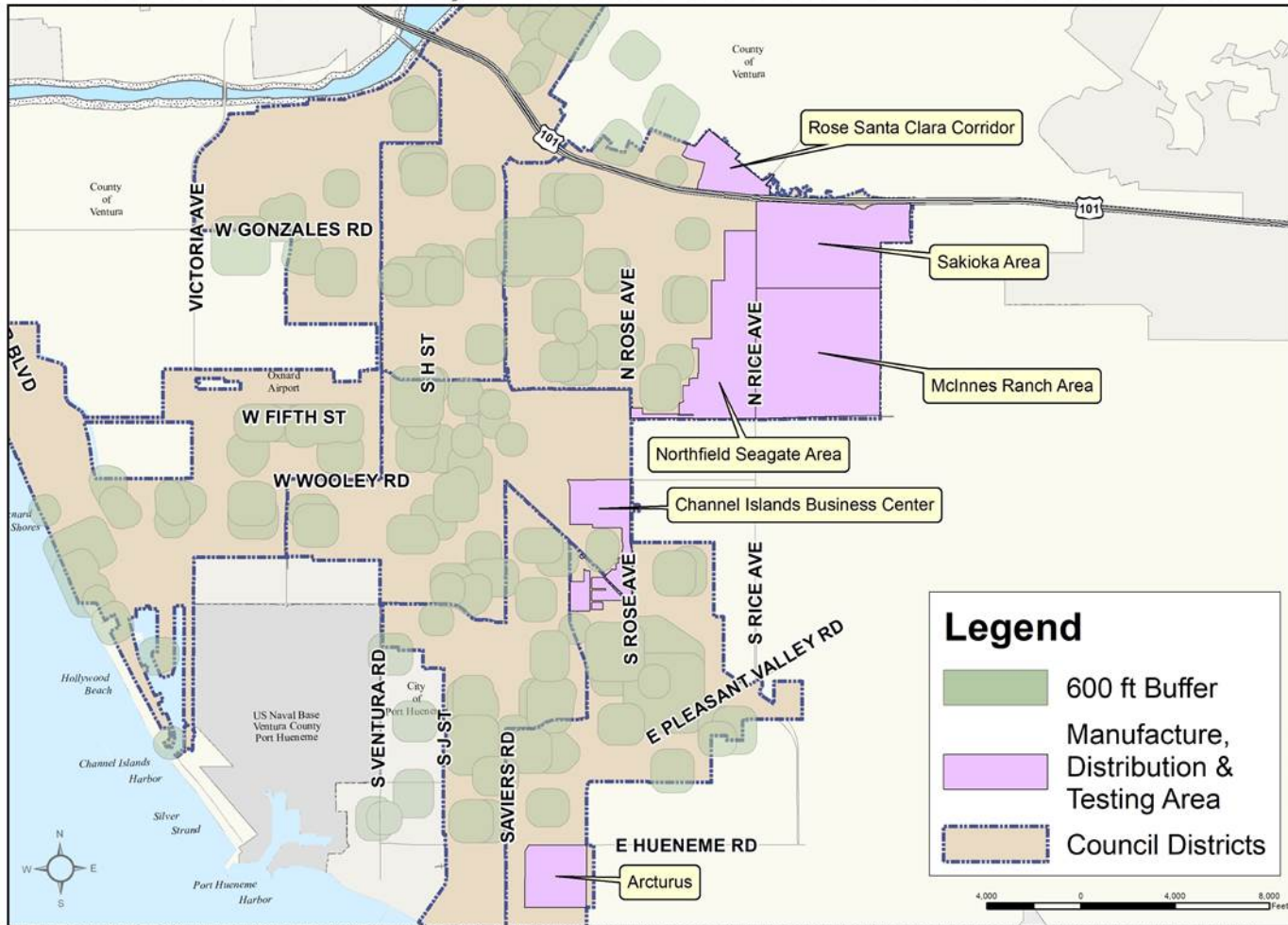
POTENTIAL CANNABIS BY NEIGHBORHOOD



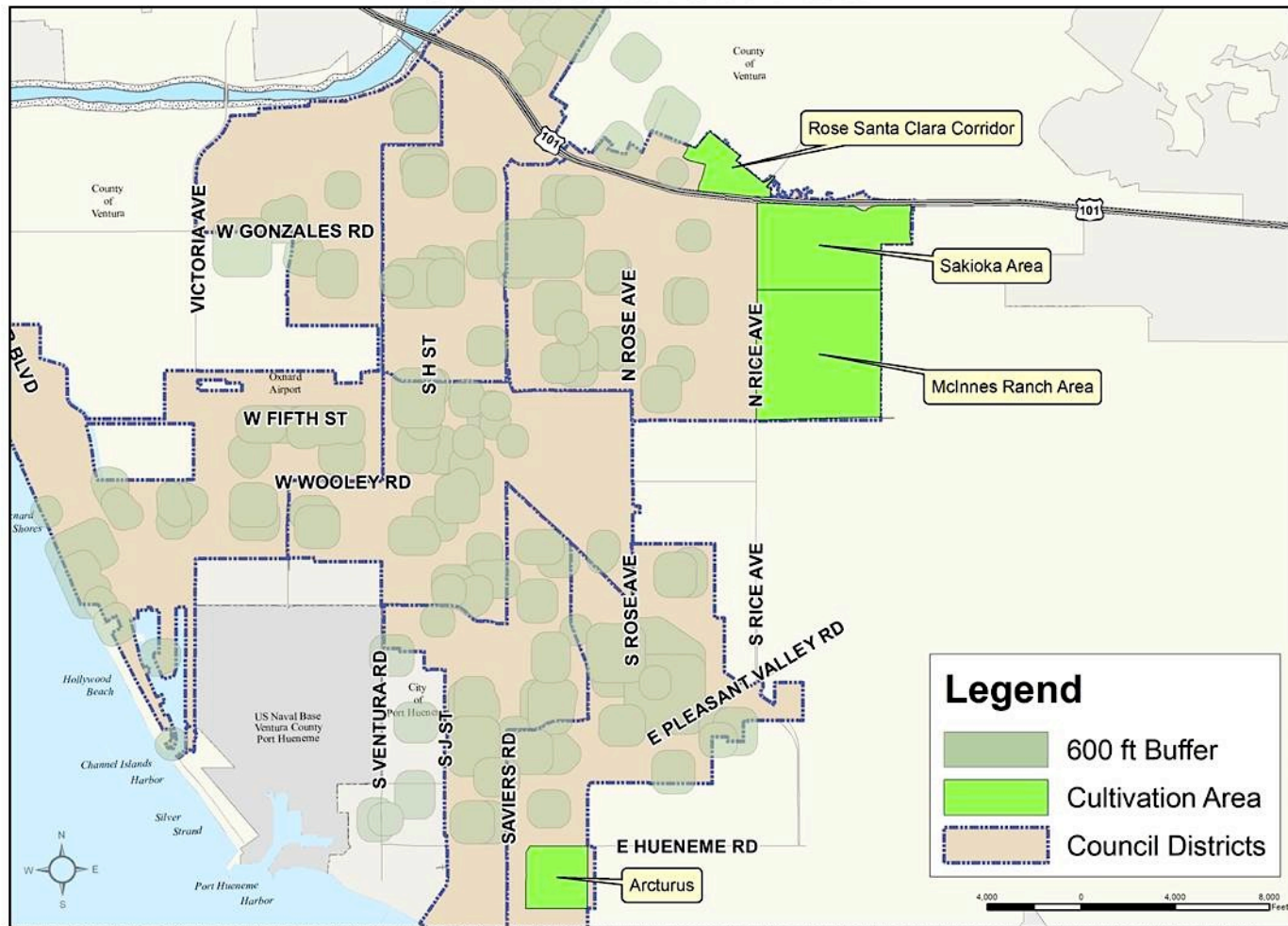
CANNABIS IN OXNARD & PORT HUENEME

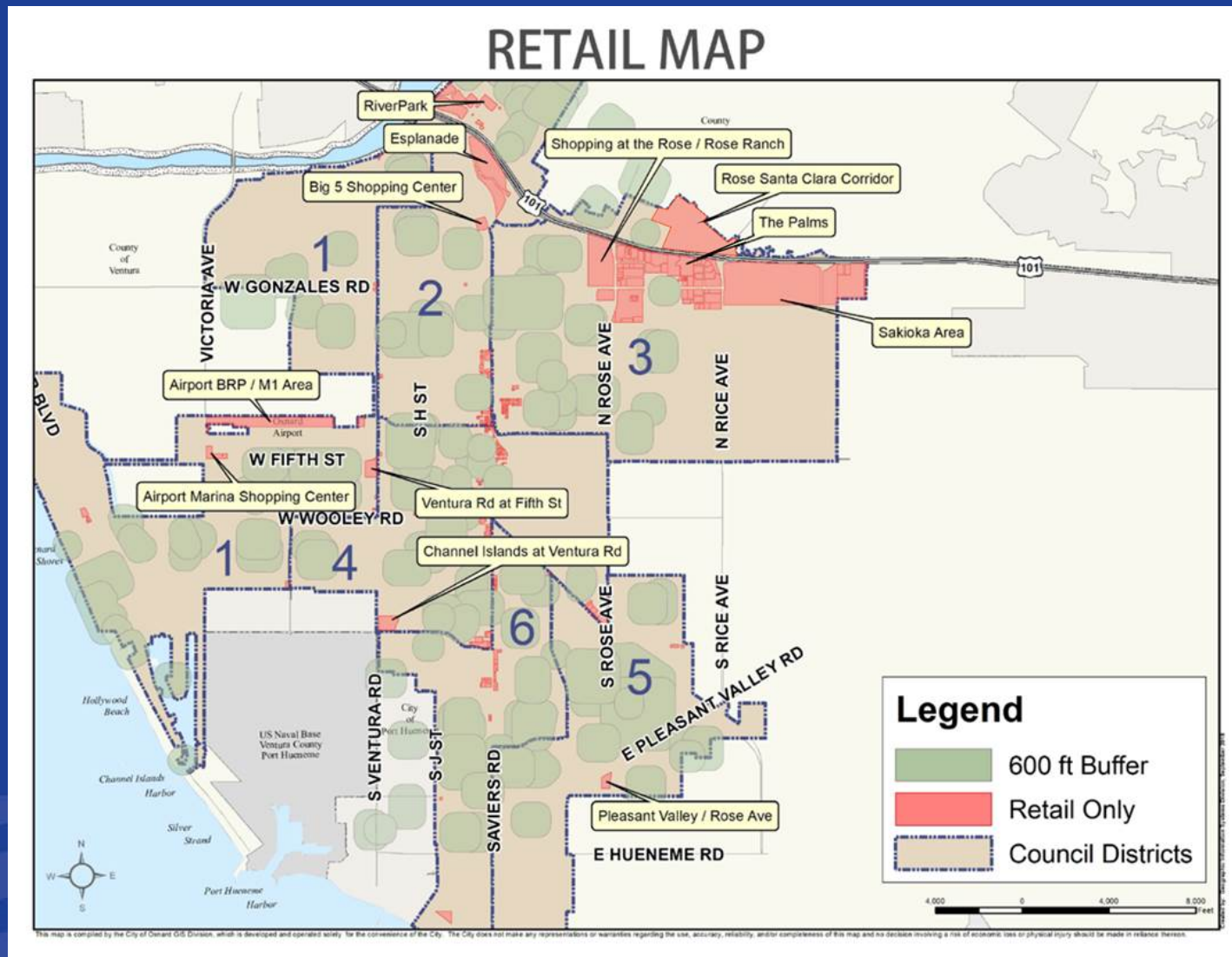


MANUFACTURE, DISTRIBUTION & TESTING MAP



CULTIVATION MAP







If Council supports dispensaries, staff will begin a 6-month period of community engagement:

- Meet with Neighborhood Council's
- Review best practices, quantitative and semi-quantitative buffer provisions and solicit input on these
- Discuss particular neighborhood concerns with Neighborhood Council
- Meet with interested operators and solicit input
- Summarize input, findings, and develop recommendations to bring to Council

OVERALL TIME FRAME

If supported by Council:

- Manufacturing, Distribution, and Testing/Laboratory Ordinance (Estimated 4 months)
- Cultivation Ordinance (Estimated 8-12 months)
- Retail Dispensary Ordinance – Conduct community engagement (Estimated 6 months); and report back to Council (Estimated 6-9 months)



RECOMMENDATION

That City Council:

1. Receive a presentation regarding land use and siting (location) options associated with cannabis land uses in zoning designations throughout the City of Oxnard;
2. Direct staff to prepare draft land use and permit regulations that would allow cannabis distribution, manufacturing, and testing/laboratory operations in the City of Oxnard;
3. Review potential indoor and outdoor cannabis cultivation and provide input on land use locations, if any; and
4. Review potential medical and non-medical cannabis dispensary (i.e., retail dispensaries) locations and direct staff to conduct community outreach to solicit input pertaining to potential dispensary locations in the City of Oxnard.