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 Library, 251 South "A" Street and 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.

AMENDED AGENDA

OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY
Council Chambers, 305 West Third Street
June 27, 2017

Regular Meeting - 6:00 PM

Closed Session - 5:00 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

1. **(NEW ITEM)** Conference with Legal Counsel – Potential Litigation
CC On the advice of the City Attorney, pursuant to Government Code section 54956.9(d)(4), based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case. 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 potential litigation.

2. Conference with Legal Counsel – Real Property Negotiations

CC Properties: APNs 223-0-030-320, 232-0-031-190, 232-0-031-210, 232-0-032-090, 232-0-032-100, 232-0-033-050, 232-0-033-045, 232-0-041-370, 232-0-041-405, 232-0-041-380, 232-0-041-390, 218-0-070-240, 218-0-070-225, 218-0-070-230, 230-0-090-785 and 218-0-070-205.
Agency negotiator: Robert McDowell of Hamner, Jewell & Associates; Robert Hearne, Interim Civil Engineer.
Negotiating parties: Plum Vista LP, Hasegawa, Marathon Land, Mary Naumann, R Naumann, McAndrews, Maria Naumann, P & R Properties, Banjo Ranch LLC, Dingaling Ranch, Berkshire, Busschere Ranch, HNS Properties and Kurihara Properties.
Under negotiation: Price and terms of payment relating to the right of way for a pipeline to be constructed.

The City Manager requested that this item be discussed in closed session under the Brown Act exception of Conference with Real Property Negotiator (Government Code section 54956.8).

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.

The purpose of the closed session is for the City Council to provide instruction to the negotiators concerning price and terms of payment relating to right of way acquisition and construction easements for a pipeline project.

D. OPENING CEREMONIES

Pledge of allegiance to the flag of the United States.

E. 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.

F. 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.

G. 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.

H. 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.

I. 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.

J. INFORMATION CONSENT AGENDA

City Manager Department

1. SUBJECT: Agreements for City Council Review
RECOMMENDATION: That City Council, pursuant to Ordinance No. 2835, and Resolution No. 13,932, approve and authorize the City Manager to execute the following agreements/contracts and change orders/amendments in amounts more than $25,000 but no more than $250,000:

A. Interface Children and Family Services (7958-17-CM) for 2-1-1 services provided to Oxnard residents ($37,000).
B. Oxnard Downtowners (7937-17-ED) for downtown events support ($30,000).
C. Vigilant Solutions (7907-17-PO) for purchase of three automated license plate reader camera system ($150,000).
D. Public Safety Corporation (7915-17-PO) for alarm management services ($150,000).
E. Housing Rights Center (7158-15-HO) for fair housing services ($29,000).
F. Tyler Technologies (5463-11-PD) for electronic citation module for the Police Department ($47,102).
G. Mario's Trucking Corporation (A-7894) for supplemental waste transfer hauling ($30,445).
H. Kustom Signals, Inc. for the purchase of two variable message sign trailers ($41,413).
Legislative Body: CC Contact: Greg Nyhoff Phone: 385-7430

Cultural and Community Service Department

2. SUBJECT: Acceptance of Senior Nutrition Grant Funds from the Ventura County Area Agency on Aging (VCAAA)
RECOMMENDATION: That City Council:

1. Authorize the City Manager or designee to execute Ventura County Area Agency on Aging Grant Contract No. 3500FY18-05 for the Provision of Services (Senior Nutrition Program) ("Senior Nutrition Program Grant Agreement") and any other document or instrument necessary to carry out the purposes of Senior Nutrition grant; the Chief Financial Officer or designee to submit financial reports, grant claims and approve budget adjustments for the use of Senior Nutrition grant funds; and

2. Approve a budget appropriation to recognize the Senior Nutrition grant award in the amount of $103,550 and program donations in the amount of $14,000 for the FY 2017-2018 Senior Nutrition Program.
Legislative Body: CC Contact: Ingrid Hardy Phone: 385-7993

Finance Department

3. SUBJECT: Hinderliter, De Llamas and Associates Consulting Contract

RECOMMENDATION: That City Council approve and authorize the City Manager to execute the First Amendment of the Agreement for Consulting Services with Hinderliter, de Llamas and Associates (HDL Coren & Cone), in the amount of $175,500 for a total not to exceed $200,000 for the consulting services contract.
Legislative Body: CC Contact: Jim Throop Phone: 385-7475

4. SUBJECT: Public Safety Tax Assessment FY2017-18. (10/25/15)
RECOMMENDATION: That City Council adopts a resolution establishing the FY 17-18 tax rates on property in the City of Oxnard for the payment of voter approved obligations.
Legislative Body: CC Contact: Jim Throop Phone: 385-7475

Human Resources Department

5. SUBJECT: A Resolution of the City Council of the City of Oxnard Establishing Rules for the Application of Compensation Rates and Benefit Levels for Unrepresented Executive, Unrepresented Mid-Managers, and Unrepresented Confidential Employees through September 2019
RECOMMENDATION: That City Council adopt the resolution regarding compensation rates and benefit levels for Unrepresented Executive, Unrepresented Mid-Managers, and Unrepresented Confidential Employees through September 2019.
Legislative Body: CC Contact: Steve Naveau Phone: 385-7947

K. REPORTS

City Manager Department

1. SUBJECT: Creation of Internal Audit Program—Approval of Contract with Price Paige and Company (10/20/15)
RECOMMENDATION: That City Council approve and authorize the Mayor to execute an Agreement with Price Paige and Company (A-7986) to provide the first comprehensive Internal Audit program, for which $200,000 has been budgeted for FY17-18.
Legislative Body: CC Contact: Greg Nyhoff Phone: 385-7430

L. PUBLIC HEARINGS

Development Services Department

1. SUBJECT: Updating the City of Oxnard's California Environmental Quality Act (CEQA) Threshold Guidelines. (10/5/5)
RECOMMENDATION: That the City Council adopt a resolution approving the updated CEQA Threshold Guidelines (herein referred to as CEQA Guidelines).
Legislative Body: CC Contact: Ashley Golden Phone: 385-7882

M. REPORTS

City Attorney Department

1. SUBJECT: Construction and Repair Work Ordinance Amendment (10/20/10)
RECOMMENDATION: That the City Council approve the introduction and first reading by title only and waive further reading of an ordinance amending Article II of Chapter 4 of the City Code regarding public projects to increase bidding thresholds; to amend the change order threshold; to allow the City Council to award projects over the Tier 2 limit as authorized by statute; to increase the City Manager's authority to award and execute public project contracts; to allow delivery of notices by any legally permissible method and to reduce required delivery time for notices inviting formal bids; to delegate the adoption of formally bid project plans, specifications and working details to the City Engineer; and to amend the requirements for the prequalification of contractors.
Legislative Body: CC Contact: Stephen M. Fischer Phone: 385-7483

Economic Development Department

2. SUBJECT: Downtown Lighting and Tree Trimming (10/20/20)
RECOMMENDATION: That City Council:
1. Appropriate $145,575 from the Downtown Improvement Program Settlement Funds ("DIPSF") to initiate two Downtown Capital Improvement Projects identified within the Downtown Vision Plan, which will include lighting for Plaza Park and tree trimming within the Central Business District; and
2. Approve the carryover of unused funds of $97,758 from the General Fund Capital Outlay for Downtown tree trimming within the Central Business District in support of the Downtown Vision Plan.
Legislative Body: CC Contact: Kymberly Horner Phone: 385-7407

3. SUBJECT: Downtown Public Restrooms (10/20/20)
RECOMMENDATION: That City Council approve the appropriation of $145,322 from the Downtown Improvement Program Settlement Funds ("DIPSF") to install public restrooms within the Central Business District.
Legislative Body: CC Contact: Kymberly Horner Phone: 385-7407

Public Works Department

4. SUBJECT: Agreement A-7955 for On-Call Sidewalk, Curb and Gutter and Spandrel Grinding Services (5/10/10)
RECOMMENDATION: That City Council approve a one-year agreement with BPR, Inc. (A-7955) for an amount that is not to exceed $250,000 for sidewalk, curb, gutter and spandrel grinding and authorize the Mayor to execute the contract upon receipt of final documents.
Legislative Body: CC Contact: Daniel Rydberg Phone: 385-8055

5. SUBJECT: First Amendment to Agreement No. 7517-16-CM with West Coast Arborists, Inc. for On-Call Tree Trimming Services (5/10/5)

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a First Amendment to Agreement No. 7517-16-CM with West Coast Arborists, Inc. in the amount of $700,000 to increase the amount from $246,255 to a total amount of $946,255 for on-call citywide tree trimming services.
Legislative Body: CC Contact: Daniel Rydberg Phone: 385-8055

N. PUBLIC COMMENTS ON REPORTS

At this time, a person may address the legislative body only on matters appearing on the reports. The presiding officer shall permit a person to address the legislative body after the staff presentation on the report and before the consideration of the report by the legislative body. The presiding officer shall limit public comments to three minutes.

O. ADJOURNMENT

CITY OF OXNARD CALIFORNIA	CITY COUNCIL AGENDA REPORT	TYPE OF ITEM: Info/Consent AGENDA ITEM NO.: 1

DATE: June 27, 2017

TO: City Council

FROM: Greg Nyhoff
City Manager

Greg Nyhoff

SUBJECT: Agreements for City Council Review

CONTACT: Greg Nyhoff, City Manager
Greg.Nyhoff@oxnard.org, 385-7430

RECOMMENDATION:

That City Council, pursuant to Ordinance No. 2835, and Resolution No. 13,932, approve and authorize the City Manager to execute the following agreements/contracts and change orders/amendments in amounts more than $25,000 but no more than $250,000:

A. Interface Children and Family Services (7958-17-CM) for 2-1-1 services provided to Oxnard residents ($37,000).
B. Oxnard Downtowners (7937-17-ED) for downtown events support ($30,000).
C. Vigilant Solutions (7907-17-PO) for purchase of three automated license plate reader camera system ($150,000).
D. Public Safety Corporation (7915-17-PO) for alarm management services ($150,000).
E. Housing Rights Center (7158-15-HO) for fair housing services ($29,000).
F. Tyler Technologies (5463-11-PD) for electronic citation module for the Police Department ($47,102).
G. Mario's Trucking Corporation (A-7894) for supplemental waste transfer hauling ($30,445).
H. Kustom Signals, Inc. for the purchase of two variable message sign trailers ($41,413).

BACKGROUND

On November 16, 2010, the City Council approved changes to the City's Purchasing Procedures reducing the threshold for City agreements/contracts and change orders/amendments requiring City Council approval to $25,000. The agreements/contract and change orders/amendments described on the attached list involve amounts above $25,000 and up to $250,000.

FINANCIAL IMPACT

A complete explanation of the agreement and funding sources are attached.

NOTE: Copies of the agreement/contracts and change orders/amendments on the list are available in the City Clerk's Office prior to the Council meeting.

ATTACHMENTS:

Attachment A: City Manager Contract List for June 27, 2017

City Manager Contract List for 06/27/2017

Contracts from $25,000 to $250,000

A 2-1-1 Ventura County Program

Vendor:	Interface Children and Family Services	**Amount to be Approved:**	$37,000
Type:	Original Agreement	**Current FY Amount:**	$37,000
Agreement No.:	7958-17-CM	**Total Contract Amount:**	$37,000
Amendment No.:	N/A	**Funding Source:**	101 - General Fund
Purchase Order No.:		**Vendor Selection Process:**	Negotiated Contract
Begin Date:	07/01/2016	**# of Bids/Proposals/Quotes:**	N/A
End Date:	06/30/2017	**Project Manager:**	Luly Lopez
Term:	1 year	**Department:**	Office of the City Manager
		Telephone:	385-7430
		Email:	luly.lopez@oxnard.org

Purpose: Staff is requesting authorization to enter into an Agreement with Interface Children & Family Services (7958-17-CM) in the amount of $37,000 for services associated with 2-1-1. The 2-1-1 program connects callers from Oxnard find help they need, including resources for counseling, housing, food, health care and urgent services such as domestic violence shelter and youth crisis assistance. The 2-1-1 service is available 24 hours a day, 7 days a week.

Funding has been budgeted in FY 2016-17 for these services.

B Downtown Events Support

Vendor:	Oxnard Downtowners	**Amount to be Approved:**	$30,000
Type:	Original Agreement	**Current FY Amount:**	$30,000
Agreement No.:	7937-17-ED	**Total Contract Amount:**	$30,000
Amendment No.:	N/A	**Funding Source:**	101-8210-801-8114, 1018210-801-8360
Purchase Order No.:		**Vendor Selection Process:**	Negotiated Contract
Begin Date:	06/15/2017	**# of Bids/Proposals/Quotes:**	N/A
End Date:	06/30/2018	**Project Manager:**	Kymberly Horner
Term:	1 Year	**Department:**	Economic Development
		Telephone:	(805) 385-7853
		Email:	Kymberly.Horner@oxnard.org

Purpose: The City's Downtown Vision Plan" ("DVP"), includes promoting and enhancing economic vitality within the Downtown. The Downtown events are key components of this vison plan to attract the public to experience what Oxnard offers. The Oxnard Downtowners have managed, provided support, specialized services, promotions for the downtown events adding to the success of the vision plan. This consultant agreement will continue the success of the Oxnard's Downtown events.

City Manager Contract List for 06/27/2017

Contracts from $25,000 to $250,000

C Purchase of Three (3) Automated License Plate Reader (ALPR) Camera Systems

Vendor:	Vigilant Solutions	**Amount to be Approved:**	$150,000
Type:	Original Agreement	**Current FY Amount:**	$77,975
Agreement No.:	7907-17-PO	**Total Contract Amount:**	$150,000
Amendment No.:	N/A	**Funding Source:**	Asset Forfeiture FY2016-17 and GVS Grant
Purchase Order No.:	3241	**Vendor Selection Process:**	Negotiated Contract
Begin Date:	06/07/2017	**# of Bids/Proposals/Quotes:**	N/A
End Date:	06/07/2020	**Project Manager:**	Commander Christopher Williams
Term:	3 Years	**Department:**	Police Department
		Telephone:	805-207-7234
		Email:	christopher.williams@oxnardpd.org

Purpose:

Staff is requesting authorization to enter into an Agreement with Vigilant Solutions (7907-17-PO) in the amount of $150,000 for the purchase of three (3) Automated License Plate Reader (ALPR) camera systems. In everyday patrol, ALPR equipped police units simply drive through the City as the cameras automatically record license plates, their GPS coordinates and the time. The software then compares each license plate read to a database comprised of wanted vehicles. Investigators have the ability to view all prior sightings of a particular vehicle as well as its GPS location, date and time of each sighting. This tool has proved invaluable for investigators in locating suspects.

In addition to the ALPR, Vigilant Solutions is including software that will assist investigators in identifying suspects, commercial data, maintenance and licensing in the cost.

Staff researched companies and located three that dealt with ALPR camera systems. After analyzing what each company offers, Vigilant Solutions was the only company that met our operational needs.

City Manager Contract List for 06/27/2017

Contracts from $25,000 to $250,000

D Alarm Management Services

Vendor:	Public Safety Corporation	**Amount to be Approved:**	$175,000
Type:	Original Agreement	**Current FY Amount:**	$0
Agreement No.:	7915-17-PO	**Total Contract Amount:**	$175,000
Amendment No.:	N/A	**Funding Source:**	101 - General Fund Revenue Sharing
Purchase Order No.:		**Vendor Selection Process:**	Request for Proposals (RFP)
Begin Date:	06/01/2017	**# of Bids/Proposals/Quotes:**	2
End Date:	05/31/2020	**Project Manager:**	Mary Diamond
Term:	3 years	**Department:**	Police Department
		Telephone:	385-7612
		Email:	mary.diamond@oxnardpd.org

Purpose:

Staff is requesting authorization to enter into an Agreement with Public Safety Corporation (7915-17-PO) in the amount of $175,000 for alarm management services. The City issued a Request for Proposal for alarm management services in February 2017. Two submissions were received and Public Safety Corporation (PSC) was selected based on a lower cost for services, years of experience and references.

The revenue sharing is based on PSC charging a $5 fee for alarm permit fees and 10% of collected fees for False Alarms. PSC will be working closely with the Oxnard Police Department to assist in the reduction of false alarm calls, generate billings, collections for alarm permits and false alarms. The agreement value of $175,000 is the anticipated revenue the City will receive after PSC charges the above mentioned fees.

E Provision of Fair Housing Services

Vendor:	Housing Rights Center	**Amount to be Approved:**	$29,000
Type:	Amendment	**Current FY Amount:**	$29,000
Agreement No.:	7158-15-HO	**Total Contract Amount:**	$87,000
Amendment No.:	2	**Funding Source:**	Community Development Block Grant
Purchase Order No.:	5490	**Vendor Selection Process:**	Request for Proposals (RFP)
Begin Date:	07/01/2015	**# of Bids/Proposals/Quotes:**	1
End Date:	06/30/2018	**Project Manager:**	Karl Lawson
Term:	3 years	**Department:**	Housing Department
		Telephone:	385-8095
		Email:	karl.lawson@oxnard.org

Purpose:

Staff is requesting authorization to enter into a Second Amendment with the Housing Rights Center (7158-15-HO) in the amount of $29,000 for fair housing services. The Second Amendment is to extend the Agreement for one year to June 30, 2018. The HRC provides fair housing counseling and services to Oxnard residents, tenants, home seekers, and housing providers; public education and outreach; and training for City and Oxnard Housing Authority staff.

Pursuant to the City's purchasing policies, a Request for Proposals was issued in December of 2014. The HRC submitted the only proposal in response thereto. That proposal was reviewed and evaluated by staff and by the Community Relations Commission's Fair Housing Subcommittee, which recommended the HRC's selection. That recommendation was presented to City Council on May 5, 2015 and approved.

City Manager Contract List for 06/27/2017

Contracts from $25,000 to $250,000

F Tyler Technologies Electronic Citation

Vendor:	Tyler Technologies	**Amount to be Approved:**	$47,102
Type:	Amendment	**Current FY Amount:**	$47,102
Agreement No.:	5463-11-PD	**Total Contract Amount:**	$5,888,251
Amendment No.:	4	**Funding Source:**	State Cops Grant, 195-2030-802.86-06, Project 662142
Purchase Order No.:	3328	**Vendor Selection Process:**	Negotiated Contract
Begin Date:	06/28/2017	**# of Bids/Proposals/Quotes:**	N/A
End Date:	06/27/2018	**Project Manager:**	Raja Bamrungpong
Term:	1 year	**Department:**	Information Technology Department
		Telephone:	805-385-7654
		Email:	raja.bamrungpong@oxnard.org

Purpose: Staff is requesting authorization to enter into a Fourth Amendment with Tyler Technologies (5463-11-PD) in the amount of $47,102 for electronic citation module. This will allow staff to transition from manual citations to electronic ones. This ensures information accuracy and seamless integration into the records management system and provides for improved officer safety, efficiency and ease of use.

Funds for this purchase are available through the State Cops Grant.

G Supplemental Waste Transfer Hauling Service

Vendor:	Mario's Trucking Corporation	**Amount to be Approved:**	$30,445
Type:	Amendment	**Current FY Amount:**	$30,445
Agreement No.:	A-7894	**Total Contract Amount:**	$130,445
Amendment No.:	1	**Funding Source:**	Environmental Resources Enterprise Fund 631
Purchase Order No.:	5933	**Vendor Selection Process:**	Negotiated Contract
Begin Date:	03/01/2016	**# of Bids/Proposals/Quotes:**	N/A
End Date:	06/30/2016	**Project Manager:**	Todd Vasquez-Housley
Term:	4 months (Retro Active Agreement)	**Department:**	Public Works - Environmental Resources Division
		Telephone:	385-7957
		Email:	toddvhousley@oxnard.org

Purpose: Staff is requesting authorization to enter into a First Amendment with Mario's Trucking Corporation (A-7894) in the amount of $30,445 for supplemental waste transfer hauling from the Del Norte Regional Recycling and Transfer Station to local designated landfills. The amendment value of $30,445 represents services rendered during the retroactive term from March 1, 2016 through June 30, 2016.

Mario's Trucking was called upon to haul material when the City's fleet and primary "on-call" hauler Ecology Auto Parts (Agreement No. A-7766) were unable to sufficiently remove solid waste to meet permit mandates.

City Manager Contract List for 06/27/2017

Contracts from $25,000 to $250,000

H Request for Variable Message Sign (VMS) Trailers

Vendor:	Kustom Signals, Inc.	**Amount to be Approved:**	$41,413
Type:	Purchase Order	**Current FY Amount:**	$41,413
Agreement No.:		**Total Contract Amount:**	$41,413
Amendment No.:	N/A	**Funding Source:**	230-2103-802-8606 (Asset Forfeiture)
Purchase Order No.:	6371	**Vendor Selection Process:**	Negotiated Contract
Begin Date:		**# of Bids/Proposals/Quotes:**	N/A
End Date:		**Project Manager:**	Randy Latimer
Term:		**Department:**	Police Department
		Telephone:	385-7619
		Email:	randy.latimer@oxnardpd.org

Purpose:

Staff is requesting authorization to purchase two variable message sign (VMS) trailers from Kustom Signals. The Police Department's Traffic Unit tested and evaluated several manufacturers of VMS trailers. The test and evaluation process included versatility, durability, construction, features, and design. Based on the testing and evaluation, the SMART VMS equipped trailers were selected as the trailer of choice based on the superior design, key features, and options.

The SMART VMS is manufactured by Am-Sig and distributed solely by Kustom Signals, Inc. to the Law Enforcement market.

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Info/Consent** **AGENDA ITEM NO.:** 2

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

Greg Nyhoff

FROM: Ingrid Hardy
Cultural & Comm Services Director

Ingrid Hardy

SUBJECT: Acceptance of Senior Nutrition Grant Funds from the Ventura County Area Agency on Aging (VCAAA)

CONTACT: Ingrid Hardy, Cultural & Comm Services Director
Ingrid.Hardy@oxnard.org, 385-7993

RECOMMENDATION:

That City Council:

1. Authorize the City Manager or designee to execute Ventura County Area Agency on Aging Grant Contract No. 3500FY18-05 for the Provision of Services (Senior Nutrition Program) ("Senior Nutrition Program Grant Agreement") and any other document or instrument necessary to carry out the purposes of Senior Nutrition grant; the Chief Financial Officer or designee to submit financial reports, grant claims and approve budget adjustments for the use of Senior Nutrition grant funds; and

2. Approve a budget appropriation to recognize the Senior Nutrition grant award in the amount of $103,550 and program donations in the amount of $14,000 for the FY 2017-2018 Senior Nutrition Program.

BACKGROUND

The VCAAA has awarded grant funds in the amount of $103,550 to the City of Oxnard Senior Nutrition Program for FY 2017-2018. The Senior Nutrition Program provides congregate and home-delivered meals to Oxnard area seniors, 60 years of age and older. The City's Senior

Services division is expected to serve approximately 13,000 congregate meals and 22,600 home-delivered meals to home-bound seniors during FY 2017-2018.

The City's Senior Services division provides the administrative oversight and management of the Senior Nutrition Program, space to serve, prepare and distribute meals, along with volunteers to assist in the day-to-day operation of the Program. A match of 10% is required and met through facility use by preparing all meals at the Wilson Senior Center kitchen and serving meals at the Wilson and Palm Vista Senior Centers. The Program also collects an estimated $14,000 in donations. These funds are placed back into the program and used to purchase food and supplies.

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 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

The City will receive Senior Nutrition Program grant funding pursuant to Contract No. 3500FY18-05 to the Senior Nutrition Program Grant Agreement. Upon Council approval of a budget appropriation, grant revenues in the amount of $103,550 and program donations in the amount of $14,000 will be appropriated to FY17-18 Senior Nutrition Program through June 30, 2018 (261-5503-805).

ATTACHMENTS:

Attachment A: Oxnard SNP Contract ExhABC FY1718

Attachment B: Budget Appropriation_17-18

Ventura County Area Agency on Aging
Agreement and Assurances of Older Americans Act Grant Award for Services
(Senior Nutrition Program)
CT# 3500FY18000000000005

ISSUED TO: City of Oxnard
(Name of Contractor)

350 North "C" Street
(Address)

Oxnard	CA	93030
(City)	(State)	(Zip Code)

==

FOR VCAAA USE ONLY

The funds provided under this contract are State and Federal Funds passed through from the California Department of Aging to the County of Ventura under contract AP-1718-18. Applicable CFDA Number for Federal Funds indicated herein is required and must be reported under the Single Audit Act.

Fiscal Year Funds:	FY 2017-2018
Contract Number:	3500FY18-05
Funding Agency Name (State/Federal):	Ventura County Area Agency on Aging (California Department of Aging/Administration on Aging)
CFDA No.:	93.045
Program Name:	Senior Nutrition
State Fund Amount:	$0.00
Federal Fund Amount	$35,750.00 (C1)
	$67,800.00 (C2)
TOTAL CONTRACT AMOUNT:	**$103,550.00**
Match (10% required, cash or in kind):	$10,355.00
Contract Amount plus Match:	$113,905.00

Ventura County Area Agency on Aging
Agreement and Assurances of Older Americans Act
Grant Award for Services

This agreement is made and entered into on July 1, 2017, by and between the **County of Ventura,** which includes among its component parts the **Ventura County Area Agency on Aging** (hereinafter called Area Agency) and the **City of Oxnard** (hereinafter called Contractor) for services specific in **Exhibit A** attached hereto and incorporated herein by reference ("Service Requirements"). The total compensation to be paid to Contractor shall not, in any event, exceed **$103,550.00** (the "Grant Amount").

Article I: Scope of Service and Performance Standards

Section 1

The performance of this contract is subject to the contingencies identified in **Exhibit C** attached hereto and incorporated herein by reference ("Contingencies"). Area Agency shall not be obligated to perform any obligation pursuant to this agreement unless and until each and every one of the Contingencies occurs to the satisfaction of the Area Agency. The Area Agency will notify Contractor, in writing, if and when Contractor has satisfied the Contingencies.

The provision of services under the terms of this contract by Contractor prior to receiving written notification of the satisfaction of Contingencies from the Area Agency is at Contractor's sole risk. Contractor understands and agrees that unless agreed otherwise in writing by VCAAA, Contractor will abide by the terms of its grant application and by the terms of the VCAAA Contractors' Manual.

Section 2

Contractor shall provide, in a satisfactory and proper manner as determined by the Area Agency's representative, the necessary personnel, equipment and materials required to carry out the services and/or activities and/or construction or acquisition as detailed in the grant application incorporated herein by reference and specifications attached as **Exhibit B** and incorporated herein. Contractor agrees to provide the services and/or activities and/or construction or acquisition in accordance with all applicable local, state, and federal designation and program standards, regulations and laws.

Contractor shall provide services provided for in this agreement in accordance with, and to comply with all terms of, the contract (AP-1718-18, HI-1718-18 or TV-1718-18) between the California Department of Aging (CDA) and the Area Agency ("the CDA Contract"), and will require any subcontractors to administer their subcontracts in accordance with this agreement and the CDA Contract, and with all applicable local, state, and federal laws and regulations including, but not limited to: those regarding discrimination, wages, and hours of employment; occupational safety; and, to fire, safety, health and sanitation regulations, directives, guidelines and/or manuals related to this agreement and resolve all issues using good administrative practices and sound judgment. A copy of the CDA Contract is on file with the Area Agency and is available upon request.

Section 3

If performance under this contract for any quarter falls below 90 percent of the contracted level of units of service, or exceeds the contracted level by more than 15 percent for the quarter, or fails to meet the quality performance standards specified in this agreement, the service provider shall submit a corrective action plan for approval by the Area Agency. The plan shall specify the specific actions to be taken to correct the problem and a timetable for each action.

If the corrective action plan is not submitted within 10 days of the end of the quarter, or if it is not implemented in accordance with the approved corrective action plan, appropriate sanctions may be imposed, as described in the Area Agency's sanction policy which is incorporated herein by reference. Failure to implement the approved corrective action plan may result in termination of the contract.

At its sole discretion, the Area Agency may waive the requirement of a corrective action plan if exceptional circumstances account for performance below the contracted level. Exceptional circumstances are those circumstances which are beyond the service provider’s control, such as natural disasters, inflationary increases beyond anticipated levels, and/or shortages of materials or supplies due to labor disputes or other reasons.

The Area Agency may request corrective action or impose sanctions at any time it is deemed necessary to uphold Area Agency, state, and federal policies and regulations.

All services provided pursuant to this agreement must be fully implemented and operational within 120 days of commencement of this agreement if this is a one-year grant, or upon the effective date of this contract if this is a one-time-only grant contract.

Section 4

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

The Contractor agrees that during the terms of this agreement that they are of sound financial status. Any Contractor that is a private corporation, Joint Powers Agreement (JPA) or private nonprofit must be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement. Failure to maintain good standing shall result in suspension or termination of this Agreement with the Area Agency on Aging until satisfactory status is restored.

Section 5

Under the terms of this contract, the following definitions apply:

CCR means California Code of Regulations.

CFR means Code of Federal Regulations.

Child means an individual who is not more than eighteen (18) years of age or who is an individual with a disability. [OAA § 372(a)(1)]

Contractor means the legal entity that receives funds from the Area Agency on Aging to provide direct services identified in and in accordance with this Agreement and determines who is eligible to receive the services. This term may be used interchangeably with Subrecipient and Grantee.

Eligible Service Population for Title III B and D means individuals sixty (60) years of age or older, with emphasis on those in greatest economic and social need with particular attention to low-income minority older individuals, older individuals with Limited English Proficiency (LEP), and older individuals residing in rural areas. [OAA § 305 (a)(2)(E); 22 CCR 7119, 7125, 7127, 7130, 7135 and 7638.7]

Eligible Service Population for Title III C-1 and C-2 means individuals sixty (60) years of age or older, with emphasis on those in greatest economic and social need with particular attention to low-income minority older individuals, older individuals with LEP, and older individuals residing in rural areas. [OAA § 305 (a)(2)(E); 22 CCR 7125, 7127, 7130, 7135]

Individuals eligible to receive Senior Nutrition Program meals are as follows:

- *Congregate Meals* – Individuals eligible to receive meals at a congregate site are as follows:
    - a) Any older individual.
    - b) The spouse of any older individual.
    - c) A person with a disability, under age sixty (60) who resides in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided.
    - d) A disabled individual who resides at home with and accompanies an older individual who participates in the program.
    - e) A volunteer under age sixty (60), if doing so will not deprive an older individual sixty (60) or older of a meal. [CCR 7636.9(b)(3); CCR 7638.7(b) and OAA 339(H)]
- *Home-Delivered Meals* – Individuals eligible to receive a home-delivered meal are as follows:
    - a) An older individual who is frail as defined by 22 CCR 7119, and homebound by reason of illness or disability, or otherwise isolated, shall be given priority in the delivery of services. [45 CFR 1321.69(a)]. (These individuals shall be given priority).
    - b) A spouse of a person in 22 CCR 7638.7(c)(2), regardless of age or condition, if an assessment concludes that is in the best interest of the homebound older individual.

c) An individual with a disability who resides at home with older individuals, if an assessment concludes that it is in the best interest of the homebound older individual who participates in the program.

Eligible Service Population for Title III E means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction. [OAA § 302(3)]

Older relative caregiver means a caregiver who is –

a. Is age 55 or older; and
b. Lives with, is the informal provider of in-home and community care to, and is the primary caregiver for, a child or an individual with a disability;
c. In the case of a caregiver for a child –
    1. Is the grandparent, step grandparent, or other relative (other than the parent) by blood, marriage, or adoption, of the child;
    2. Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregivers of the child; and
    3. Has a legal relationship to the child, such as legal custody, adoption, or guardianship, or is raising the child informally
d. In the case of a caregiver for an individual with a disability, is the parent, grandparent, or other relative by blood, marriage, or adoption, of the individual with a disability. [OAA § 372(a)(3)]

Health Insurance Counseling and Advocacy Program (HICAP) means a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy about Medicare, private health insurance, and related health care coverage plans for the purpose of preserving service integrity on a Statewide basis. [Welf. & Inst. Code § 9541]

Indirect Costs means costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.

Individual with a disability means an individual with a disability, as defined in Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102), who is not less than age 18 and not more than age 59. [OAA § 372(a)(2)]

In-kind Contributions means the value of non-cash contributions donated to support the project or program (e.g., property, service, etc.).

Matching Contributions means local cash and/or in-kind contributions made by the Contractor, a subcontractor, or other local resources that qualify as match for the Contract funding. Cash and/or in-kind contributions may count as match, if such contributions are used to meet program requirements. Any matching contributions (cash or in-kind) must be verifiable from the records of the Contractor or a subcontractor. Matching contributions must be used for allowable costs in accordance with the Office of Management and Budget (OMB) cost principles.

Non-Matching Contributions means local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions. (e.g., federal funds, overmatch, etc.).

OAA means Older American Act.

OMB means the federal Office of Management and Budget.

One-Time-Only Funds means:

a. Titles III and VII federal funds allocated to the AAA in a State fiscal year that are not expended or encumbered for services and administration provided by June 30 of that fiscal year as reported to the California Department of Aging (CDA) in the Area Plan Financial Closeout Report. [22 CCR 7314(a)(6)]
b. Title III and VII federal funds recovered from an AAA as a result of a fiscal audit determination and resolution by CDA. [22 CCR 7314(a)(7)]
c. Supplemental Title III and Title VII program funds allocated by the Administration on Aging to CDA as a result of the federal reallotment process. [22 CCR 7314(a)(8)]

Priority Services for Title III B means those services associated with access to services (transportation, outreach, information and assistance, and case management); in-home services including supportive services such as respite and visiting, for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and legal assistance.

Priority Services for Title III E means services provided to:

a. Caregivers who are older individuals with greatest social need, and older individuals with greatest economic need (with particular attention to low-income older individuals)
b. Older relative caregivers of children with severe disabilities, or individuals with disabilities who have severe disabilities. [OAA§373(c)(2)(A-B)]
c. Family caregivers who provide care for individuals with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction. [OAA § 372(b)]

Program Income means revenue generated by the Contractor or subcontractor from contract-supported activities and may include:

a. Voluntary contributions received from a participant or responsible party as a result of services.
b. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
c. Royalties received on patents and copyrights from contract-supported activities.
d. Proceeds from sale of items purchased under a contract agreement.

Program Requirements means Title III program requirements found in the OAA [42 USC 3001-3058]; the Code of Federal Regulations [45 CFR 1321]; the California Code of

Regulations [22 CCR 7000 et seq.]; and CDA Program Memoranda, and California Retail Food Code (CRFC).

State and **Department** mean the State of California and the California Department of Aging (CDA) interchangeably.

State Health Insurance Assistance Program (SHIP) means a national program supported by the federal Administration for Community Living (ACL) that offers one-on-one counseling and assistance to people with Medicare and their families. Through federal grants directed to states, SHIPs provide free counseling and assistance via telephone and face-to-face interactive sessions, public education presentations and programs, and media activities. In California, SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP). This term may be used interchangeably with HICAP.

Title III B (Supportive Services) means a variety of services including, but not limited to: personal care, homemaker, chore, adult day health care, case management, assisted transportation, transportation, legal assistance, information and assistance, outreach, and long-term care ombudsman advocacy, as defined in the National Aging Programs Information Systems (NAPIS) categories and the National Ombudsman Reporting System (NORS). [OAA § 321(a)]

Title III C-1 (Congregate Nutrition Services) means nutrition services for older individuals in a congregate setting. Services include meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization. Each meal shall provide one-third (1/3) of the Dietary Reference Intakes (DRI) and comply with the most current Dietary Guidelines for Americans (DGA). To be an eligible Title III C-1 congregate nutrition site, the site must meet all of the following criteria: [22 CCR 7638.7(a)]

a. Be open to the public. [45 CFR 1321.53(b)(3)]
b. Not means test. [OAA § 315(b)(3)]
c. Provide participants the opportunity to make voluntary contributions and not deny service for not contributing to the cost of the service. [OAA § 315(b)(4)] [22 CCR 7638.9]
d. Not receive funds from another source for the cost of the same meal, equipment, or services. [2 CFR 200.403(f)][45 CFR 75.403(f)]

Title III C-2 (Home-Delivered Nutrition Services) means nutrition services provided to homebound older individuals including meals, nutrition and health promotion education, and nutrition risk screening. Each meal shall provide one-third (1/3) of the DRI and comply with the most current Dietary Guidelines for Americans. [22 CCR 7135, 22 CCR 7638.7(c)]

Title III D (Disease Prevention and Health Promotion Program) means disease prevention and health promotion programs that are based on scientific evidence and demonstrated through rigorous evaluation to be effective in improving the health of older adults. Title III D evidence-based health promotion programs help older adults learn techniques and strategies to delay and/or manage chronic health conditions and include activities that improve; nutrition, physical fitness, fall prevention, and emotional well-being.

Title III E Family Caregiver Support Program (FCSP) Categories are:

a. Information Services
b. Access Assistance
c. Support Services
d. Respite Care
e. Supplemental Services [OAA 373(b)(1)(2)(3)(4)(5)]

USC means United States Code.

Vendor means an entity selling goods or services to the Contractor or Subcontractor during the Contractor or Subcontractor's performance of the Agreement.

Article II: Period of Performance

Except as otherwise provided, the term of this agreement shall commence on July 1, 2017, and terminate on June 30, 2018.

Article III: Program Budget and Payment Schedule

Section 1

The reimbursed compensation of the Grant Amount shall be paid in monthly increments upon receipt of a monthly request for advance of funds submitted by Contractor to the Area Agency and on the basis of an evaluation of Contractor's cash requirements, cash-on-hand as documented on the request form, and the Area Agency's approval of performance to-date.

No expenditure shall be made or obligation incurred in excess of the Grant Amount, this agreement, or not in accordance with the Authorized Total Budget, as defined herein. The total budget authorized by the Area Agency shall be provided with the written notification of satisfaction of contingencies ("Authorized Total Budget"). Any expenditure of funds that is not in compliance with the Authorized Total Budget or this agreement, or not within the costs set forth in the Authorized Total Budget, or in accordance with applicable federal and state rules and regulations, shall not be chargeable to the Area Agency. Any unauthorized expenditures shall be borne by Contractor. The Contractor shall prepare and submit a monthly expenditure report in an electronic format as instructed by the Area Agency by the 30th of each month.

During the Contract period, requests to expedite payments shall be reviewed and based on an analysis of the Contractor's need to provide services.

Any reimbursement for authorized travel and per diem under the terms of this agreement shall be at rates not to exceed those amounts paid by the State in accordance with California Department of Human Resources' (CalHR) rules and regulations: (http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx).

In State:

- Mileage – http://www.calhr.ca.gov/PML%20Library/2015041.pdf

- Per Diem (meals and incidentals) – http://www.calhr.ca.gov/employees/Pages/travel-meals.aspx,
- Lodging – http://www.calhr.ca.gov/employees/Pages/travel-lodging-reimbursement.aspx

Out of State:
- http://www.calhr.ca.gov/employees/Pages/travel-out-of-state.aspx

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by the Area Agency on Aging, between the CalHR rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Area Agency on Aging. (CCR, Title 2 Section 599.615 et seq.)

Section 2

All payments shall be made in accordance with the provisions of this agreement and the Authorized Total Budget. The funds to be paid by the Area Agency to Contractor are solely federal and state funds and shall be spent in accordance with the Authorized Total Budget. Contractor must obtain prior approval in writing from Area Agency's representative for any budget modifications.

Section 3

The Area Agency may, at its discretion, reallocate to other projects that portion of Contractor's Older Americans Act award which (during the mid-year or other budget review) is projected to become unexpended grant funds.

Section 4

Contractor shall maintain accounting records (including payroll records, bills, invoices and receipts) for all funds received pursuant to this agreement separate from any other funds administered by Contractor. This shall include project income and all matching funds indicated in the grant application. Contractor shall expend the same solely for the purpose of the project, and shall refund to the Area Agency any unencumbered amounts upon termination or completion of the subject project. Contractor shall also account for all other non-cash items reflected in the budget of the grant application.

Section 5

In the event Contractor receives payment for a service to which reimbursement is disallowed by the Area Agency or to the Area Agency by the California Department of Aging or the Federal Administration on Aging, Contractor shall promptly refund the disallowed amount to the Area Agency on request.

Section 6

Funds made available under this Agreement shall supplement, and not supplant, any Federal, State, or local funds expended by a State or unit of general purpose local government to provide Title III (excluding III E), or Title VII Programs.

Funds made available under Title III E shall supplement and not supplant other services that may directly or indirectly support informal caregiving, such as Medicaid waiver programs (e.g., MSSP, etc.), or other caregiver services such as those provided through Caregiver Resource Centers, Linkages, Alzheimer's Day Care Resource Centers, Respite Purchase of Service, and other Title III funded providers.

Section 7

Costs incurred by the Contractor or subcontractor must be verifiable from the records of the Contractor or subcontractor and must be allowable as outlined in OMB circulars and may be cash or in-kind contributions.

Section 8

The maximum reimbursement amount allowable for indirect costs is 8% of Contractor's direct costs, excluding in-kind contributions and nonexpendable equipment unless there is an accepted negotiated rate accepted by all Federal awarding agencies. [2 CFR 200.414(c)(1),(f)] [45 CFR 75.414(c)(1), (f)]

Section 9

Matching Requirements

1. The required minimum administration matching contributions for Title III-B, not including Ombudsman, III-C, & III-E combined is twenty-five percent (25%).
2. The required minimum program matching contributions for Title III-B, not including Ombudsman, and III-C is ten percent (10%).
3. The required minimum program matching contributions for Title III-E is twenty-five percent (25%).
4. Minimum matching requirements are calculated on net costs, which are total costs less program income, non-matching contributions, and State funds.
5. Program matching contributions for Title III-B, not including Ombudsman, and III-C can be pooled to meet the minimum requirement of ten percent (10%).
6. Matching contributions generated in excess of the minimum required are considered overmatch.
7. Program overmatch from Title Ill-B or III-C cannot be used to meet the program match requirement for III-E.
8. Expend not more than ten percent (10%) of the total Title III-E federal and matching non-federal share to provide support services to grandparents and older individuals who are relative caregivers of a child who is not more than eighteen (18) years of age in accordance with OAA § 373(g)(2)(C).

9. Limit expenditures for Title III-E Supplemental Services to twenty percent (20%) of the total Title III-E federal and matching non-federal share.

Article IV: Reporting and Evaluation

Section 1

Contractor shall submit status reports to the Area Agency on a monthly basis in a form to be determined by the Area Agency. All program reports are due on or before the tenth of each month following the month being reported and shall contain the information requested by the Area Agency.

Section 2

Area Agency may, at its discretion, conduct periodic evaluations or audits of the Program. Contractor shall cooperate with the Area Agency in evaluations of the Program as scheduled by the Area Agency. Contractor will collect and make available all pertinent project information as needed and/or requested, and participate in any project site visits made by the Area Agency. No request for payment of funds shall be approved by the Area Agency's representative until such reports have been timely filed.

Article V: Information Integrity and Security

The Contractor, and its Subcontractors/Vendors, shall have in place operational policies, procedures, and practices to protect State information assets including those assets used to store or access Personal Health Information (PHI), Personal Information (PI) and any information protected under the Health Insurance Portability and Accountability Act (HIPAA), (i.e., confidential, sensitive and/or personal identifying information) as specified in the State Administrative Manual, § 5300 to 5365.3, Cal. Gov. Code § 11019.9, DGS Management Memo 06-12; DOF Budget Letter 06-34; CDA Program Memorandum 07-18 Protection of Information Assets, and the Statewide Health Information Policy Manual.

Information Assets may be in hard copy or electronic format and may include but is not limited to:

1. Reports
2. Notes
3. Forms
4. Computers, laptops, cellphones, printers, scanners
5. Networks (LAN, WAN, WIFI) servers, switches, routers
6. Storage media, hard drives, flash drives, cloud storage
7. Data, applications, databases

Encryption of Computing Devices

The Contractor, and its Subcontractors/Vendors, are required to encrypt data collected under this Agreement that is confidential, sensitive, and/or personal information including data stored on all computing devices (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers and backup media) and/or electronic storage media (including but not limited to, discs, thumb/flash drives, portable hard drives, and backup media).

Disclosure

1. The Contractor, and its Subcontractors/Vendors, shall ensure that all confidential, sensitive and/or personal identifying information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies.
2. Contractor, and its Subcontractors/Vendors, shall protect from unauthorized disclosure, confidential, sensitive and/or personal identifying information such as names and other identifying information concerning persons receiving services pursuant to this agreement, except for statistical information not identifying any participant. This provision shall remain in force even after termination of the contract.
3. “Personal identifying information” shall include, but not be limited to, name, identifying number, social security number, state driver’s license or state identification number, financial account numbers, symbol or other identifying characteristic assigned to the individual, such as fingerprint, voiceprint or a photograph.
4. Contractor, and its Subcontractors/Vendors, shall not use confidential, sensitive and/or personal identifying information above for any other purpose than carrying out Contractor’s obligations under this agreement. The Contractor and its Subcontractors are authorized to disclose and access identifying information for this purpose as required by OAA.
5. Contractor, and its Subcontractors/Vendors, will not, except as otherwise specifically authorized or required by this agreement or court order, disclose any identifying information obtained under the terms of this agreement to anyone other than the Area Agency and/or the California Department of Aging without prior written authorization from the Area Agency and/or the California Department of Aging. Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
6. Contractor, and its Subcontractors/Vendors, may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give blanket authorization to sign a blank release, nor shall Contractor accept such from any participant. The Contractor may allow a participant to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such blanket authorization from any participant.

Security Awareness Training Requirement

The Contractor’s employees, Subcontractors/Vendors, and volunteers handling confidential, sensitive and/or personal identifying information must complete the required CDA Security Awareness Training module located at https://www.aging.ca.gov/ProgramsProviders/#Resources within thirty (30) days of the start date of the Contract/Agreement, within thirty (30) days of the start date of any new employee, Subcontractor, Vendor or volunteer’s employment and annually thereafter.

The Contractor must maintain certificates of completion on file and provide them to VCAAA upon request.

Health Insurance Portability and Accountability Act (HIPAA)
Contractor agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act (HIPAA) and ensure that Subcontractors/Vendors comply with the privacy and security requirements of HIPAA.

Security Incident Reporting
A security incident occurs when CDA information assets are or reasonably believed to have been accessed, modified, destroyed, or disclosed without proper authorization, or are lost or stolen. The Contractor and its Subcontractors/Vendors, must comply with CDA's security incident reporting procedure located at https://www.aging.ca.gov/ProgramsProviders/#Resources

Security Breach Notifications
Notice must be given by the Contractor, and/or its Subcontractors/Vendors to anyone whose confidential, sensitive and/or personal identifying information could have been breached in accordance with HIPAA, the Information Practices Act of 1977, and State policy.

Software Maintenance
The Contractor, and its Subcontractors/Vendors, shall apply security patches and upgrades in a timely manner and keep virus software up-to-date on all systems on which State data may be stored or accessed.

Electronic Backups
The Contractor and its Subcontractors/Vendors, shall ensure that all electronic information is protected by performing regular backups of files and databases and ensure the availability of information assets for continued business. The Contractor, and its Subcontractors/Vendors, shall ensure that all data, files and backup files are encrypted.

Article VI: State Licensure Requirements

Contractor represents or warrants that it possesses or will possess all necessary licenses, permits, notices and certificates required to provide the services which are the subject of this agreement prior to the commencement date of the agreement.

Article VII: Contributions for Social Services

Contractor shall provide older persons receiving services the opportunity to contribute to all or part of the costs of the social services provided. Contractor will consult with the project consumer participation body regarding proposed contributions. Each individual recipient will determine what he or she is able to contribute toward the cost of the social service. No older person will be denied a social service because of his or her failure to contribute.

Means tests shall not be used by any Contractor for any Title III or Title VII services, nor shall services be denied to any Title III or Title VII client that does not contribute toward the cost of the services received. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive.

Contractor will provide each recipient with an opportunity to voluntarily contribute to the cost of the service. Clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary. Protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution; and establish appropriate procedures to safeguard and account for all contributions.

In the event that Contractor generates program income from a program funded by this agreement, this income must be reported and expended under the same terms and conditions as the program funds from which it is generated. Program income must be used to expand services and be used to pay for current allowable costs of the program in the same fiscal year that the income was earned. For programs funded by Title III B, Title III C, Title III D, Title III E, Title VII Ombudsman and Title VII-A Elder Abuse Prevention programs, program income must be spent before contract funds and may reduce the total amount of contract funds payable to Contractor. Program income may not be used to meet the matching requirements of this contract.

Article VIII: Nondiscrimination

Contractor shall comply with all federal and state statutes relating to nondiscrimination, including those contained in the Contractor Certification Clauses (CCC1005) which is hereby incorporated by reference. These include, but are not limited to: (a) Title VII of the Civil Rights Act of 1964 (42 USC 2000e et. seq.), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law 92-261); (b) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (c) Title IX of the Education Amendments of 1972, as amended (20 USC §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), which prohibits discrimination on the basis of handicap; (e) the Age Discrimination Act of 1975, as amended (42 USC §§6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to non-discrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to non-discrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 USC §§ 290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Cal. Gov. Code § 11135 et seq., and 2 CCR § 11140 et seq., which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability (22 CCR § 98323), Title VII of the Civil Rights Act of 1968 (42 USC §§ 43601 et seq.) as amended, relating to nondiscrimination in the sale, rental or refinancing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and, (k) the requirements of any other nondiscrimination statute(s) which may apply to this agreement.

California Civil Rights Laws
The Contractor shall ensure compliance with the requirements of California Public Contract Code § 2010 by submitting a completed California Civil Rights Laws Certification, prior to execution of this Agreement. The certificate is available at: http://www.dgs.ca.gov/ols/Forms.aspx

The California Civil Rights Laws Certification ensures Contractor compliance with the Unruh Civil Rights Act (Cal. Civ. Code § 51) and the Fair Employment and Housing Act (Cal. Gov. Code § 12960), and ensures that Contractor internal policies are not used in violation of California Civil Rights Laws.

Contractor shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 USC §§ 12101 et seq.)

Inquiries and Complaints Regarding National Origin
Contractor must designate an employee to whom initial complaints or inquiries regarding national origin can be directed. The name of the designated individual shall be provided to the VCAAA Grants Administrator. Complaints relating to national origin discrimination shall be handled by the Contractor. If the complaint is not resolved, the complainant shall be provided to the VCAAA Grants Administrator. The Contractor shall notify VCAAA immediately of a complaint alleging discrimination based upon a violation of State or federal law. [2 CCR 11162, 22 CCR 98310, 98340]

Limited English-Speaking Participants
Contractor agrees to provide the Ventura County Area Agency on Aging with the following information regarding program participants: number or proportion of limited English-speaking (LEP) persons likely to be encountered by the program, frequency with which LEP individuals come in contact with the program, nature and importance of the services provided to people’s lives.

This group-needs assessment will serve as the basis for the Contractor’s determination of “reasonable steps” and provide documentary evidence of compliance with Cal. Gov. Code § 11135 et seq., 2 CCR 11140, 2 CCR 11200 et seq., and 22 CCR 98300 et seq. Contractor shall take reasonable steps, based upon the group-needs assessment identified above, to ensure that “alternative communication services” are available to non-English speaking or LEP beneficiaries of services under this Agreement. [2 CCR 11162]

Based upon the findings of the group-needs assessment, the Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contacts, office visits and in-home visits. [2 CCR 11162]

“Alternative communication services” include, but are not limited to, the provision of services and programs by means of the following: Interpreters or bilingual providers and provider staff, contracts with interpreter services, use of telephone interpreter lines, sharing of language assistance materials and services with other providers, translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs and referral to culturally and linguistically appropriate community service programs.

Article IX: Training

Contractor agrees to participate in staff training and development programs provided by the Area Agency, California Department of Aging, Administration on Aging, or any of their agents. Contractor shall make budget provisions to pay for the travel, per diem, and tuition costs of such efforts as required or necessary.

Article X: Lobbying Certification

Contractor certifies to the best of its knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of a federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, or an officer or employee of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions. The form is available upon request from the Area Agency.
3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Article XI: Subcontracts and Assignments

In the event any subcontractor or assignment is utilized by Contractor for any portion of the project, Contractor retains the prime responsibility for carrying out all of the terms of this agreement, including, but not limited to, the responsibility for preserving the State’s copyrights and rights in data, for handling property in accordance with Article XVIII of this agreement, and the responsibility for ensuring the availability and retention of records of subcontractors and assignments in accordance hereto.

No subcontract or assignment utilizing funds from this agreement shall be entered into which has a term extending beyond the ending date of this agreement as set forth in Article II hereto. Any subcontracts to provide program services under this agreement shall be approved in writing by an Area Agency designated representative and shall have no force or effect until so approved and will be subject to the provision of this agreement. Purchase of items such as standard commercial supplies, office space, or printing services do not require a subcontract and do not require prior Area Agency approval. A copy of any executed subcontract or assignment must be forwarded to the Area Agency within thirty (30) days after the beginning of the subcontract or assignment. Contractor will be responsible for monitoring the insurance requirements of its subcontractors in accordance with Article XVI of this contract.

Conflict of Interest

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that Area Agency determines that a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by Area Agency and such conflict may constitute grounds for termination of the Agreement.

2. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents, or employees have family, business, or other ties, so long as the employment of such persons does not result in a conflict of interest (real or apparent) or increased costs over those associated with the employment of any other equally qualified applicant, and such persons have successfully competed for employment with the other applicants on a merit basis.

Article XII: Recordkeeping

Contractor shall maintain complete records (which shall include, but not be limited to: accounting records; contracts; agreements; reconciliation of the “Financial Closeout Report” to the audited financial statements, single audit, and general ledgers; a summary worksheet of results from the audit resolutions performed for all subcontractors with supporting documentation; letters of agreement; insurance documentation in accordance with this contract; Memorandums and/or letters of understanding; patient or client records; and, electronic files) of its activities and expenditures hereunder in a form satisfactory to the Area Agency and the California Department of Aging in compliance with the laws and regulations of the State of California and the Department of Health and Human Services. The financial records of Contractor as they pertain to this grant are subject to audit by the Area Agency. Contractor shall allow the California Department of Aging, the Controller General of the United States, or duly authorized representatives of any of those entities, to inspect Contractor books and records at any time during the grant period, and for a minimum period of four (4) years after the expiration of the grant. Contractor shall maintain responsibility for such records, both during the grant period and for a minimum four (4) year period following the last transaction related to the grant. Records for non-expendable property must be retained for a minimum of four (4) years subsequent to the final disposition of this property.

All original source documents must be retained until an audit resolution is completed or four (4) years from the end of the fiscal year/grant cycle, for which the document is prepared. The VCAAA recommends that Grantee/Contractor contact the VCAAA grants manager before disposing of any records.

If any unauthorized expenditures, unallowable expenditures, or irregularities are discovered, Contractor is responsible for making any necessary reparation to the Area Agency. If an audit is commenced or discovers any unallowable expenditures or irregularities, the records must be kept by Contractor as long as necessary until the issue is satisfactorily resolved. After the authorized period has expired, confidential records shall be shredded and disposed **of in a manner that will maintain confidentiality.**

Article XIII: Unexpended Funds

Contractor understands and agrees that there is no provision for carryover of unexpended grant funds at the end of the contract period. Unexpended grant funds will be returned to the Area Agency.

Article XIV: Audit and Closeout Requirements

Section 1

Contractor shall provide to Area Agency a copy of any audit performed of Contractor within thirty (30) days of its completion.

Section 2

Within thirty (30) days after the close of the project period or when requested by the Area Agency (whichever comes earlier), Contractor shall provide the Area Agency with an ending Closeout Financial Report signed by Contractor's representative. The Area Agency shall provide Contractor the form on which to complete the Closeout Financial Report, and the Closeout Financial Report shall contain all the information required by the Area Agency.

Section 3

A specific grant-funded program audit will be performed and shall be provided to the Area Agency within ninety (90) days after the close of any contract when requested by the Area Agency. The auditors shall comply with all applicable audit requirements.

Contractors expending less than $750,000 in total federal funds are exempt from federal audit requirements, but their records must be available for review. Area Agency reserves the right to determine whether Contractor expended the funds provided under this agreement in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of Contractor (financial statements including working papers and accounting records) or through other means (e.g., monitoring reviews) if Contractor has not been audited. Accounting records must contain receipts and/or other documentation enumerated in Article III Section 4 of this contract, to support all claims.

Contractors that expend $750,000 or more in Federal Awards (not necessarily from the Area Agency) shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98 502; the Single Audit Act Amendments of 1996, Public Law 104-156; 2 CFR 200.501 to 200.521; and 45 CFR 75.501 to 75.521. Contractor shall permit independent auditors to have access to the records and financial statements as necessary for Contractor to comply with OMB Circular A-133.

For purposes of reporting, the Contractor shall ensure that Federal-Funded expenditures are displayed discretely in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the Catalog of Federal Domestic Assistance (CFDA) number along with the related State-Funded expenditures. The Contractor shall ensure that the State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number, and as passed-through the Area Agency on Aging.

The following closely related programs identified by CFDA number are to be considered as an "other cluster" for purposes of determining major programs or whether a program-specific audit may be elected. The Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit along with each of its subcontractors. The funding source (Federal Grantor) for the following programs is the U.S. Department of Health and Human Services, Administration for Community Living.

- 93.041 Special Programs for the Aging-Title VII-A, Chapter 3 – Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-A, Chapter 3).
- 93.042 Special Programs for the Aging-Title III-B/VII-A, Chapter 2 – Long-Term Care Ombudsman Services for Older Individuals (Title III-B/VII-A, Chapter 2).
- 93.043 Special Programs for the Aging-Title III, Part D – Disease Prevention and Health Promotion Services (Title III-D).
- 93.044 Special Programs for the Aging-Title III, Part B – Grants for Supportive Services and Senior Centers (Title III-B).
- 93.045 Special Programs for the Aging-Title III, Part C – Nutrition Services (Title III-C).
- 93.052 National Family Caregiver Support Program-Title III, Part E.
- 93.053 Nutrition Services Incentive Program.

Use all collected contributions to expand the services for which the contributions were given and to supplement (not supplant) funds received under this Act.

"Cluster of programs" means a grouping of closely-related programs that share common compliance requirements. The types of clusters of programs are research and development, student financial aid, and other clusters. "Other clusters" are defined by the consolidated CFR in the Compliance Supplement or as designated by a state for federal awards provided to its subcontractors that meet the definition of "cluster of programs."

When designating an “other cluster,” a state shall identify the federal awards included in the cluster and advise the subcontractors of compliance requirements applicable to the cluster. A “cluster of programs” shall be considered as one program for determining major programs, as described in 45 CFR 75.525(a), whether a program-specific audit may be elected. (Federal Office of Management and Budget, [45 CFR 75 Requirements], Audits of States, Local Governments 45 CFR 75 Appendix V to part 75 F. 1., and Nonprofit Organizations 45 CFR 75 Appendix IV to part 75 C. 2.a.

Any money obligated under the grant (even if in the possession of Contractor) but not needed to meet incurred obligations will be returned with the Closeout Financial Report to the Area Agency.

The California Department of Aging shall have access to all audit reports of Contractor and has the option to perform audits and/or additional work, as needed.

It is understood that the costs of audits requested by the Area Agency shall be at the expense of Contractor. Unless prohibited by law, the cost of audits made in accordance with the provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principal circulars. Contractor may not charge to Federal Awards the cost of any audits under the Single Audit Act Amendments of 1996, not conducted in accordance with the Act.

Contractor will ensure that appropriate corrective action has been taken to correct instances of non-compliance with federal laws and regulations. Corrective action shall be taken within six months after the Area Agency receives Contractor’s audit report.

Article XV: Indemnity

1. All activities and/or work covered by this Agreement shall be at the risk of Contractor alone. Contractor agrees to defend (at Area Agency’s request), indemnify, and hold harmless the Area Agency and the County of Ventura, including all of its boards, districts, agencies, departments, officers, employees, agents and volunteers, against any and all claims and losses, lawsuits, judgments, debts, demands and liability, injuries or death of persons and/or 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 the Area Agency and the County of Ventura.

   Contractor further agrees to indemnify, defend, and hold harmless the Area Agency, the County of Ventura and the California Department of Aging, their officers, agents, and employees from any and all liability, claims and losses, damages or expenses, including reasonable attorney fees arising from all acts or omissions to act of contractor or its officers, agents or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising from Agency’s sole negligence or willful acts accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by Contractor in the performance of this agreement.

2. Contamination and Pollution. Contractor, solely at its own cost and expense, will provide cleanup of any premises, property, or natural resources contaminated or polluted due to Contractor activities. Any fines, penalties, punitive or exemplary damages assigned due to contamination or polluting activities of Contractor will be borne entirely by Contractor. Any Contractor receiving more than $100,000 in funding shall comply with all orders or requirements issued under the following laws: Clean Air Act, as amended (42 USC 1857); Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.); Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738), State Contract Act [Cal. Pub. Con. Code §10295 et seq.], and Unruh Civil Rights Act [Cal. Pub. Con. Code § 2010].

3. Contractor, and the agents and employees of Contractor, in the performance of this Agreement, duties, and obligations, and in the exercise of the rights granted under this Agreement shall act in an independent capacity and not as officers or employees or agents of the Area Agency, the County of Ventura or the State of California.

4. If, in the performance of this Agreement, Contractor chooses to associate, subcontract with, or employ any third person in carrying out its responsibilities under this Agreement, any such third person shall be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of association, subcontract or employment, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of association, subcontract or employment or requirements of law, shall be determined by Contractor, and the Area Agency shall have no right or authority over such persons or the terms of their association, subcontract or employment, except as provided in this Agreement. Neither Contractor nor any such person shall have any claim under this Agreement or otherwise against the Area Agency for sick leave, vacation pay, retirement benefits, social security benefits, workers' compensation, disability, unemployment insurance benefits, or employee benefits of any kind.

5. The Contractor, and its Subcontractor/Vendors, shall comply with Governor's Executive Order 2-18-2011, which bans expenditures on promotional and marketing items colloquially known as "S.W.A.G." or "Stuff We All Get."

6. Contractor is an independent contractor and shall hold the Area Agency and the County of Ventura harmless from any and all claims that may be made against the Area Agency or the County of Ventura based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement. The Area Agency is not required to make any deductions from the compensation payable to Contractor under the provisions of this Agreement. Contractor shall be solely responsible for self-employment social security taxes, income taxes and any other

taxes levied against it. Contractor does not assign such obligation to the Area Agency for collection or administration except as may be required by federal and state statutes.
Contractor further agrees to hold the Area Agency harmless from, and to compensate the Area Agency for, any claims against the Area Agency for payment of state or federal income or other tax obligations relating to Contractor's compensation under the terms of this Agreement.

Article XVI: Insurance

The County of Ventura requires that all contractors (grantees) indemnify and defend the County for liability incurred as a result of actions associated with the proposed project, and carry insurance as required for the proposed contract. Contractor, at its sole cost and expense, shall obtain and maintain in full force during the term of this agreement, adequate liability insurance to cover all activities of Grantee necessary to fulfill Grantee's obligations under this Agreement. It is understood and agreed that the Area Agency reserves the right to determine the type and extent of insurance that may be required.

1. Prior to commencement of any contract, contractor shall provide the VCAAA proof of the following insurance:
   (a) 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 $50,000 fire legal liability.

   (b) Commercial Automobile Liability coverage in the minimum amount of $1,000,000 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. Contractor must have on file evidence of auto insurance in the minimum amount of $100,000 CSL bodily injury & property damage for all employees and volunteers associated with the contract.

   (c) Workers' Compensation 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.

   (d) Professional Liability coverage in the minimum amount of $1,000,000 each occurrence and $2,000,000 aggregate. Does not apply to all contractors.

2. All insurance required shall be primary coverage in respect to the Area Agency and the County of Ventura, and any insurance or self-insurance maintained by the Area Agency and the County of Ventura shall be in excess of Contractor's insurance coverage and shall not contribute to it.

3. The County of Ventura and the Ventura County Area Agency on Aging are to be named as Additional Insured with respect to work done by Contractor under the terms of this Agreement on all policies required (except Workers' Compensation).

4. Contractor agrees to waive all rights of subrogation against the County of Ventura and the Ventura County Area Agency on Aging for losses arising directly or indirectly from the activities and/or work performed by Contractor under the terms of this agreement (applies only to Commercial General Liability and Workers' Compensation).

5. The Area Agency is to be notified immediately if any aggregate insurance limit is not met. Additional coverage must be purchased to meet requirements.

6. Policies will not be canceled, non-renewed, or reduced in scope of coverage at any time that said policies are required by this agreement until after 30 days' written notice has been given to the Area Agency and approved in writing by the Area Agency. If the reason for cancellation is non-payment of the insurance premium, 10 days' written notice is acceptable.

7. Contractor agrees to provide the Area Agency with the following insurance documents on or before the effective date of this contract:

   (a) Certificates of Insurance for all required coverages. The Area Agency shall be named the certificate holder and the address must be listed on the certificate.

   (b) Additional Insured endorsements naming the Area Agency and the County of Ventura and authorized with a signature by the insurance carrier.

   (c) Waiver of Subrogation endorsement (aka: Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others).

8. If Contractor fails to maintain insurance as required, Area Agency shall have the right, but not the duty, to purchase any such required insurance on Contractor's behalf (a) utilizing grant funds and/or (b) with Contractor obligated to reimburse Area Agency promptly for all such costs not paid by Area Agency directly out of grant funds. Failure to maintain adequate insurance and/or bonds pursuant to Article XVI(a) hereof shall constitute a material breach for which the Area Agency may terminate this Agreement effectively by giving written notice to Contractor, or as other indicated in said notice. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Contractor from liability in excess of such coverage, nor shall it preclude Area Agency from taking such other actions as are available to it under any other provisions of this Agreement or otherwise by law.

9. If the Professional Liability coverage is "claims made," Contractor must, for a period of three (3) years after the date when contract is terminated, completed or non-renewed, maintain insurance with a retroactive date that is on or before the start date of this agreement OR Contractor must purchase an extended reporting period endorsement (tail coverage). The Area Agency may withhold final payments due until

satisfactory evidence of the tail coverage is provided by Contractor to the Area Agency.

Article XVII: Grant Modifications

Any revision, waiver, or modification of this agreement must be approved in writing by the Area Agency by amendment to this agreement. Only a grant modification that changes a single approved budget line item that is less than 10 percent may be made without prior written approval by the Area Agency.

Article XVIII: Equipment and Property (per State Contract Manual – Section 3.17.2)

1. Unless otherwise provided for in this Article, property refers to all assets, capitalized or non-capitalized, used in operation of this Agreement. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.

2. Property meeting all of the following criteria is subject to the capitalization requirement. Such property must:
   (a) Have a normal useful life of at least 1 year;
   (b) Have a unit acquisition cost of at least $5,000 (e.g., four identical assets which cost $3,000 each, for a $12,000 total would not meet this capitalization requirement); and,
   (c) Be used to conduct business under this Agreement.

3. Non-capitalized property includes those items which do not meet all three requirements in this Article, Section B above.

4. Additions, improvements, and betterments to assets meeting all of the conditions in Section 2(b) above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

5. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or non-capitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

   Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

6. The Contractor shall utilize procurement procedures as follows:
    a. The Contractor shall obtain goods and services through open and competitive awards. Each Contractor shall have written policies and procedures, including application forms, for conducting an open and competitive process, and any protests resulting from the process.
    b. For goods and services purchased with Title III or Title VII funds, the procurement procedures must include, at a minimum, the requirements set forth in 22 CCR 7352. The only exception is contained in 22 CCR 7360(a). The Contractor issuing a noncompetitive award must comply with 22 CCR 7360(b)-(d).

7. Any equipment purchased under Older Americans Act programs will be subject to review over the life of the equipment and, if not used, underused or misused, may be claimed by the Area Agency.

8. The State shall retain title to all equipment purchased wholly or in part with federal and state funds and described as “Equipment” in the budget set forth in the grant application incorporated herein by reference to the extent permitted under federal and state regulations.

9. Contractor is required to keep records of the following information when property is purchased with Grant funds. This information should include the date acquired, property description (including model number), property identification number, serial number, rate of depreciation (or depreciation schedule) if applicable, and cost. This information is to be provided to the Area Agency.

    CDA tag number or other tag shall identify property purchased with Grant funds as State of California property.

    Contractor shall keep track of all property purchased with Grant funds, whether capitalized or not. Contractor shall submit to the Area Agency annually, with the Closeout Financial Report, a current inventory of property furnished or purchased by Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose.

    Any loss, damage, or theft of equipment shall be investigated, fully documented and the Contractor shall promptly notify VCAAA.

10. Prior to the disposal of any non-expendable property purchased with grant funds, Contractor must obtain permission from the Area Agency regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency, may not occur until approval is received from the Area Agency.

11. Contractor shall inform Area Agency within three days in the event of the loss, destruction, or theft of grant-purchased non-expendable property.

12. Contractor shall exercise due care in the use, maintenance, protection and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until Contractor has complied with all written instructions from the Area Agency regarding final disposition of the property.

13. Contractor shall use the property for the purpose for which it was intended under this agreement. When no longer needed for that use, Contractor shall use it if needed, and with written approval of the Area Agency, for other purposes in this order:

    (a) For another California Department of Aging program providing the same or similar service; or,
    (b) For another California Department of Aging funded program; or,
    (c) For another state or federally funded program.

    Contractor shall not use equipment or supplies acquired under this agreement with federal and/or state monies for personal gain or to usurp the competitive advantage of a privately owned business entity.

Article XIX: Planning Efforts

Contractor shall cooperate fully with the Area Agency in any efforts toward developing a comprehensive and coordinated system of services for the elderly. Contractor shall participate in joint planning efforts and service which may include the shared use of grant-funded equipment, service coordination, and other activities as may be determined by the Area Agency to attain this goal.

Article XX: Personnel

Contractor shall maintain adequate staffing levels to perform at the contracted level as stipulated in the grant application submitted to the Area Agency. Contractor shall actively seek qualified older persons for paid positions on the project and make provisions for volunteer opportunities for older persons.

Article XXI: Debarment, Suspension, and other Responsibility Matters

Contractor certifies to the best of its knowledge and belief, that it or its agents:

1. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

2. Have not, within a three-year period preceding this Agreement, been convicted of, or had a civil judgment rendered against them, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlements, theft, forgery,

bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

4. Have not, within a three-year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

Contractor shall report immediately to the Area Agency in writing any incidents of alleged fraud or abuse. Contractor will maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Area Agency on Aging.

Article XXII: Living Wage Ordinance

This contract is subject to the County of Ventura Living Wage Ordinance ("Ordinance"). The Ordinance requires the payment of a living wage and accompanying paid time off to all covered employees engaged in providing services pursuant to a service contract as defined in Sec.4952 (f). Misrepresentation during the procurement or contracting process in order to secure the contract will disqualify a bidder or contractor from further consideration in the procurement or contracting process. Failure to comply once a contract has been awarded will constitute a material breach of the contract and may result, among other things, in the suspension or termination of the affected contract and debarment from future County contracting opportunities for a period not to exceed three years. 501 (c)(3) nonprofit organizations are exempt from the Ordinance.

Article XXIII: Termination of Grant

Section 1

Older Americans Act funds awarded under this grant may be terminated by the Area Agency at any time for non-compliance with any of the terms and conditions of this grant provided that at least thirty (30) days' written notice is given to Contractor.

Section 2

The Contractor (applies to all grants except for the Ombudsman) may terminate this grant at any time, for reasons of its own choosing, provided that at least one hundred and twenty (120) days written notice is given to the Area Agency. The Ombudsman Contractor shall carry out the federal and state mandates and responsibilities without any break in the provision of ombudsman services. Contractor shall promptly notify the Area Agency of any intention to terminate responsibility for ombudsman services. Except as provided elsewhere in this agreement, Contractor shall continue the program without any break in service until another contractor can take over responsibility for operation of the program.

Section 3

Contractor shall promptly notify the Area Agency of any intention to terminate responsibility for providing the specified grant funded services.

Section 4

This contract may be terminated on twenty-four (24) hours' notice in the event the allocation to the Area Agency of Older Americans Act and/or state funds are reduced, suspended, or terminated for any reason. Contractor hereby expressly waives any and all claims against the Area Agency for damages arising from the reduction, suspension, or termination of the federal and/or state funds provided to the Area Agency, under which this agreement is made, or to the portion thereof delegated by this agreement.

Section 5

In the event that Contractor dissolves or terminates this contract, Contractor shall provide a final property inventory to the Area Agency. The Area Agency and the California Department of Aging reserve the right to require Contractor to transfer such property to another agency, the Area Agency, or the California Department of Aging.

To exercise the above right, no later than 120 days after the termination of the Agreement or notification of Contractors dissolution, the Area Agency will issue specific written disposition instructions to Contractor.

Article XXIV: Access

Contractor shall provide access to the federal or state agency, Bureau of State Audits, the Controller General of the United States and the Area Agency, or any of their duly authorized federal or state representatives, to any books, documents, papers, records, and electronic files of Contractor which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts, and transcriptions.

Article XXV: Monitoring

1. Authorized State representatives and Area Agency representatives shall have the right to monitor, assess, and evaluate Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to: audits, inspections of project premises, interviews of project staff and participants and, when applicable, inspection of food preparation sites.
2. Contractor shall cooperate with the State and the Area Agency in the monitoring, assessment and evaluation processes, which include making any administrative program and fiscal staff available during any scheduled process.

Article XXVI: Grievance

Section 1

Contractor is required to establish a written grievance procedure for reviewing and attempting to resolve complaints of older individuals [California Code of Regulations Section 7400(a)(2)]. At a minimum the process shall all of the following:

(a) Time frames within which a complaint will be acted upon.
(b) Written notification to the complainant of the results of the review, including a statement that the complainant may appeal to the Area Agency if dissatisfied with the results of the Contractors review.
(c) Confidentiality provisions to protect the complainant's rights to privacy. Only information relevant to the complaint may be released to the responding party without the older individual's consent.

Section 2

Contractor is required to notify all older individuals of the grievance process through their organization as well as the Area Agency. Contractor may notify older individuals by the following methods:

(a) Posting notification of the process in visible and accessible areas, such as the bulletin boards in senior centers. For areas in which a substantial number of older individuals are non-English speaking, the notification shall also be posted in the primary language of a significant number of older individuals. The term “substantial number” and “significant number” shall be determined by the Area Agency.
(b) Advising homebound older individuals of the process either orally or in writing upon the service providers’ contact with the individuals.

Section 3

Complaints may involve, but not be limited to, any or all of the following: amount or duration of a service, denial or discontinuance of a service or dissatisfaction with the service being provided or with the service provider, complaints regarding an issue of professional conduct that is under the jurisdiction of another entity, such as the California Medical Board or the State Bar Association, or failure of the Contractor to comply with the terms of this contract. Sections 9102 and 9105, Welfare and Institutions Code. Reference 42 USC 3026(a) (6) (P) and 3027 (a) (43).

Article XXVII: Contract for Responsibility and Notification

Section 1

The Director of the Ventura County Area Agency on Aging, or designee, shall be the Area Agency’s representative for purposes of administering this agreement. The

Program Manager/Director shall represent Contractor. *If the Contractor's representative changes, Contractor agrees to immediately notify the VCAAA's Grants Administrator.*

Section 2

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following address:

AREA AGENCY:
Ventura County Area Agency on Aging
L#4450
646 County Square Drive, Suite 100,
Ventura, CA 93003-9086

CONTRACTOR:
At address shown on Page 1 of this Agreement.

IN WITNESS THEREOF, the Area Agency and Contractor have executed this Agreement as of the date first written above.

COUNTY OF VENTURA
Area Agency on Aging

By: ______________________________
Authorized Purchasing Agent
GSA Procurement, County of Ventura

____
Date

CONTRACTOR

By: ______________________________
(Signature over Printed Name of Authorized Signatory)

____
(Title of Authorized Signatory)

____
Date

EXHIBIT A

SCOPE OF WORK, SERVICES AND REPORTING REQUIREMENTS – FY 2017-18

CONTRACTOR: CITY OF OXNARD
PROJECT: SENIOR NUTRITION PROGRAM

Contractor agrees to provide and report the grant-funded services that are described below.

Provide Congregate and Home-Delivered meals to seniors aged 60 years and older as defined in Title III C1 and C2 of the Older Americans Act. Seniors participating in the meal program will be given the opportunity to make a donation.

SERVICE CATEGORIES:

A Congregate meal is defined as meeting the USDA's Dietary Guidelines for Americans (DGA) as determined by the VCAAA Registered Dietitian and served in a social setting. A Home-Delivered meal is delivered to a homebound senior whom is assessed quarterly for eligibility.

SERVICE AND REPORTING REQUIREMENTS:

Service Category	Number of Service Units to be Provided July 1, 2017 – June 30, 2018	Funding (%)
Congregate Meals (Title III C1)	13,000	35%
Home-Delivered Meals (Title III C2)	22,600	65%
Totals	35,600	100%

NOTE: Service requirements are contingent upon funding and are subject to change accordingly. Reference California Department on Aging Contract #AP-1718-18.

EXHIBIT B

ADDITIONAL TERMS AND ASSURANCES – FY 2017-18

CONTRACTOR: CITY OF OXNARD
PROJECT: SENIOR NUTRITION PROGRAM

Service of congregate and home-delivered meals in the City of Oxnard and surrounding areas in accordance with all local, state and federal laws.

ADDITIONAL ASSURANCES REQUIRED OF ALL TITLE III C CONTRACTORS

General Definitions Applying to Title III C Contractors

"Title Ill C-1 (Congregate Nutrition Services)" means nutrition services for older individuals in a congregate setting. Services include meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization. Each meal shall provide one-third (1/3) of the Dietary Reference Intakes (DRI) and comply with the most current Dietary Guidelines for Americans (DGA). To be an eligible Title III C-1 congregate nutrition site, the site must meet all of the following criteria: [22 CCR 7638.7(a)]

a) Be open to the public. [45 CFR 1321.53(b)(3)]
b) Not means test. [OAA § 315(b)(3)]
c) Provide participants the opportunity to make voluntary contributions and not deny service for not contributing to the cost of the service. [OAA § 315(b)(4);)] [22 CCR 7638.9]
d) Not receive funds from another source for the cost of the same meal, equipment, or services. [2 CFR 200.403(f)]

"Title Ill C-2 (Home-Delivered Nutrition Services)" means nutrition services provided to homebound older individuals including meals, nutrition and health promotion education, and nutrition risk screening. Each meal shall provide one-third (1/3) of the DRI and comply with the most current DGA. [22. CCR 7135, 22 CCR 7638.7(c)]

Eligibility of Volunteers for Senior Nutrition Services

Volunteers may be offered a meal if doing so will not deprive a participant of a meal. Contractor shall comply with the most current Ventura County Area Agency on Aging (VCAAA) Contractor's handbook for providing and accounting for meals provided to Senior Nutrition Program volunteers. The Contractor shall report to the VCAAA volunteer meals on their monthly rosters and meal counts entered into CareAccess/Q. In all cases of eligibility, priority shall be given to individuals aged 60 and older and Native Americans aged 45 and older.

Voluntary Meal Contributions

Contractor shall comply with the Senior Nutrition Program Handbook and the VCAAA Contractor's Manual in determining a suggested monetary contribution for meals. When developing the suggested contribution amount, Contractor shall take into account the income ranges of the older individuals in their community as well as other sources of program income. The suggested contribution cannot exceed the actual cost of the meal. A sign shall be posted at the congregate meal site that states the suggested contribution amount and the required fee for non-seniors. Contractor shall ensure that an eligible participant who receives a meal shall be given the opportunity to contribute toward the cost of the meal; however, no eligible individual can be denied a meal due to failure to contribute. Furthermore, Contractor shall ensure that the amount of each individual's contribution is kept confidential. Contractor shall track paid meals on the monthly roster and report them monthly in CareAccess/Q. VCAAA will invoice Contractor quarterly for non-senior paid meals.

All contributions and fees are to be identified as "program income." The Contractor shall develop written procedures and implement accounting measures to accurately collect and protect meal contributions on a daily basis. The written policy shall include measures to counter any loss, mishandling and/or theft of funds.

Administrative Responsibilities

Senior Nutrition Program Contractors shall adhere to monthly, quarterly and annual reporting requirements as determined by the VCAAA. Administrative reporting requirements include, but are not limited to, the timely and accurate reporting of monthly meal counts and Requests for Funds (RFF), quarterly Home-Delivered Meals Assessments, and the weekly ordering of food.

Staff Qualifications

- Site Coordinator – Each Senior Nutrition Program Contractor shall employ a Site Coordinator that is responsible for the day to day administration and operations at their site. The Site Coordinator shall have one of the following qualifications:
  a) An Associate Degree in Institutional Food Service or closely related field, and two years' experience as a food service supervisor; or
  b) Demonstrable experience in food service and, within twelve months of hire, successfully complete twenty (20) hours of college level coursework in food service management, business administration and/or personnel; or
  c) Two years' experience in food service management as verified by a Registered Dietitian prior to hire.

- Program Staff – Each Senior Nutrition Program Contractor shall ensure there are sufficient numbers of paid staff and/or volunteers to carry out program requirements. The total number of qualified staff shall be determined by the scope and level of services provided.

Staff and Volunteer Training Requirements

All staff, paid and volunteer, shall be oriented and trained to perform their assigned responsibilities and tasks. Contractor shall have a written grievance policy posted for staff that ensures an equitable process for handling staff complaints.

Training by VCAAA Registered Dietitian (RD) shall include, at a minimum, food safety (ServSafe) and prevention of foodborne illness. All new Site Coordinators must be ServSafe trained. The RD will provide a yearly written plan for staff training that shall be maintained at each Senior Nutrition Program site. A minimum of four hours per year of approved staff training shall be provided for paid and non-paid food service staff at each Senior Nutrition Program site by the RD. Training sessions shall be conducted quarterly, documented with attendance records and evaluated by those receiving the training. All training records shall be submitted to VCAAA quarterly.

Safety

Contractor is responsible for contracting with local fire safety departments to provide accident prevention, fire safety, first aid, choking, earthquake preparedness and other emergency procedures training as required at each congregate meal site. A current Fire Inspection Certification shall be displayed at each site. Each meal site and/or Home-Delivered Meals distributor is also required to maintain and make available to staff upon request current Safety Data Sheets (SDS) at their site(s) per 29 CFR. Furthermore, each meal site and/or home-delivered meals distributor must display a State of California Health Certification. Each congregate meal site must also display a current ServSafe Certification.

Nutrition Education Services for Participants

Nutrition education for program participants shall be provided at a minimum of four times per year. All training shall be conducted by the VCAAA RD who develops and maintains a yearly nutrition education plan. Nutrition education for congregate meal participants may include demonstrations, presentations, lectures and group discussions, all of which may be augmented with printed materials. Distribution of printed materials shall constitute nutrition education for home-delivered meal recipients. Accurate training records shall be kept by each Contractor that indicate the type and duration of training. Training records shall be submitted to VCAAA on a quarterly basis to ensure training requirements are being met.

Records, Reports, Distribution of Information and Confidentiality

In accordance with the VCAAA Contractors Manual and the Senior Nutrition Program Handbook, Contractor shall maintain current and accurate records on congregate and home-delivered meal participants as follows:

a) Both congregate and home-delivered meal participants shall have a Senior Nutrition Program Meal Registration form on file in Care Access/Q.
b) Each home-delivered meal recipient shall also have a current Senior Nutrition Program Home-Delivered Meal Assessment Worksheet on file in CareAccess/Q.
c) Contractors shall update the Nutritional Risk and ADL/IADL assessments for home-delivered meal recipients in CareAccess/Q annually.
d) Each SNP Site Coordinator shall use the Meal Registration forms to generate monthly rosters from CareAccess/Q for home-delivered and congregate meal recipients.
e) Each Senior Nutrition Program Contractor shall report to the VCAAA by the 10th of the month following the month of service the total number of meals served monthly.

f) Contractor shall ensure confidentiality of all Senior Nutrition Program participant records. All records containing confidential information shall be handled in a confidential manner in accordance with the requirements for information integrity and security.

The Contractor shall assure that the following publication conditions are met:
Materials published or transferred by the Contractor and financed with funds under this Agreement shall:

a) state, “The materials or product were a result of a project funded by a contract with the California Department of Aging.”
b) give the name of the entity, the address, and telephone number at which the supporting data is available and
c) include a statement that, “The conclusions and opinions expressed may not be those of the California Department of Aging and that the publication may not be based upon or inclusive of all raw data.”

Nutrition Services Requirements

Contractor shall ensure that the congregate meal site adheres to the following requirements:

a) Each participant is registered for a meal using the Senior Nutrition Program Meal Registration form; and
b) Provide a means by which to obtain participants’ views about the services received; and
c) Provide meals, if available, to all participants regardless of reservation status; and
d) Ensure that trained staff (paid and/or non-paid) is physically present during the time that meals are being served; and
e) Provide restrooms, lighting and ventilation at the site that meets the requirements of California law; and
f) Provide equipment (e.g. tables and chairs) that is sturdy and appropriate for older individuals; and
g) Arrange tables and chairs in such a manner as to be conducive to and encourage socialization among participants.

Contractor contracting for home-delivered meal service shall adhere to the following assessment requirements:

a) Eligible participants are registered and assessed for need using the Senior Nutrition Program Meal Registration form and the Home Delivered Meal Assessment Worksheet; and
b) Initial assessments may be done by phone; however, a written assessment shall be conducted at the participants’ homes within two weeks of the beginning of meal service; and
c) Participants shall be assessed for other nutrition-related supportive services and referred as needed; and
d) Participants shall be reassessed in their homes at least every six months and allowable by phone every other quarter to ensure eligibility.

A waitlist shall be established whenever a Contractor is unable to provide home-delivered meals to all eligible participants. Waitlists must be pre-approved by the VCAAA. The decision to place an eligible individual on a waitlist and their ranking on that list shall be determined by greatest social and economic need.

Nutritional Requirements of Meals

Contractor will work with the VCAAA RD to ensure that each meal complies with the Dietary Guidelines for Americans (DGA) and provides 1/3 of the Dietary Reference Intakes. The DGA is jointly published by the U.S. Department of Health and Human Services and the U.S. Department of Agriculture. The Dietary Reference Intakes are reference values determined by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences. Each meal shall provide the following:

a) A weekly average caloric range of >550-750 calories per meal; and
b) Three (3) ounces of cooked, edible protein in the form of meat, fish, poultry, eggs, cheese or the protein equivalent; and
c) At least one-half (½) cup serving of different cooked vegetables and/or one (1) cup of raw leafy vegetables; and
d) One-half (½) cup serving of fruit; and
e) At least one (1) serving of whole grain; and
f) Eight (8) ounces of fortified fat-free or low-fat milk; and
g) Target 500-750 milligrams of Sodium; and
h) Foods containing a minimum of 25 milligrams of Vitamin C; and
i) Food(s) containing a minimum of 233 micrograms of Vitamin A shall be served at least three (3) times per week.

These meals and any other Senior Nutrition Program meals served by Contractor shall constitute the menu provided to participants of the Senior Nutrition Program. Any and all supplemental foods and/or enhancements must be reviewed and approved by the VCAAA RD prior to service. The VCAAA will provide Contractor with a menu two (2) weeks in advance of meal service.

EXHIBIT C

CONTINGENCIES – FY 2017-18

CONTRACTOR: CITY OF OXNARD
PROJECT: SENIOR NUTRITION PROGRAM

The performance of this contract is subject to the contingencies (if any) identified below.

- The Area Agency shall not be compelled to perform any obligation pursuant to this Agreement unless and until all Contingencies are met to the satisfaction of the Area Agency.
- The Area Agency shall notify the Contractor in writing when Contractor has satisfied the Contingencies.
- A Contractor that provides services under the terms of this contract prior to receiving a *Written Notification of Satisfaction of Contingencies* from the Area Agency does so at Contractor's sole risk.

CONTRACT CONTINGENCIES

None

REQUEST FOR BUDGET APPROPRIATION

Department: Cultural & Community Ser | **Date:** June 5, 2017

Project/Program Manager: Renee Rakestraw | **Phone:** 805-385-8022

Reason for Appropriation:

To recognize the FY 17-18 Senior Nutrition grant from the Ventura County Area Agency on Aging and program donations as matching contributions. (Appropriation will be recorded in FY17-18)

Accounts and Descriptions		**AMOUNT**
Fund: FEDERAL TERM GRANTS FUND (261)		
Revenues/Transfers In		
Senior Nutrition FY 17-18 (Project 775365)		
261-5503-581-75.33	MISCELLANEOUS REVENUES/FEDERAL PASS-THROUGH	103,550
261-5390-581-75.08	MISCELLANEOUS REVENUES/DONATIONS	14,000
	Sub-total Revenues	117,550
Expenditures/Transfers Out		
Senior Nutrition FY 17-18 (Project 775365)		
261-5503-805-80.02	PERSONAL SERVICES / DIRECT LABOR-TEMPORARY	62,000
261-5503-805-81.09	MATERIALS AND SUPPLIES / SUPPLIES - OTHER	3,550
261-5503-805-82.09	CONTRACTS & SERVICES / SVCS - OTHER PROF/CONTRA	38,000
261-5390-805-80.02	PERSONAL SERVICES / DIRECT LABOR-TEMPORARY	14,000
	Sub-total Expenditures	117,550
	Net Change to Fund Balance	**0**

Approvals

Department Director ______________________

Chief Financial Officer ______________________

City Manager ______________________

BA# (Finance Use Only)______________

BA Doc# (Finance Use Only)

REQUIRES CITY COUNCIL AUTHORIZATION

Revi

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Info/Consent** **AGENDA ITEM NO.: 3**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager
Greg Nyhoff

FROM: Jim Throop
Chief Financial Officer
Deanne Purcell

SUBJECT: Hinderliter, De Llamas and Associates Consulting Contract

CONTACT: Jim Throop, Chief Financial Officer
Jim.Throop@oxnard.org, 385-7475

RECOMMENDATION:

That City Council approve and authorize the City Manager to execute the First Amendment of the Agreement for Consulting Services with Hinderliter, de Llamas and Associates (HDL Coren & Cone), in the amount of $175,500 for a total not to exceed $200,000 for the consulting services contract.

BACKGROUND

In January 30, 2017, the City entered into a one year agreement with Hinderliter, de Llamas and Associates (HDL Coren & Cone), in the amount of $24,500 to provide consulting services. HDL provides the City with sales tax and economic analysis and allocation audit recovery services. The sales and economic analysis fee is currently $850 per month or $2,500 a quarter while the audit recovery services can vary significantly as the consultant conducts audits to identify and correct distribution and allocation errors and to proactively affect favorable registration, reporting or formula changes thereby generating previously unrealized sales, use and transactions tax income for the City and/or recovering misallocated tax from previously properly registered taxpayers. Common errors can include transposition errors resulting in misallocations, erroneous consolidation of multiple outlets, formula errors, misreporting of "point of sale" to the wrong location, delays in reporting new outlets, misallocating use tax payments to the allocation pools or wrong jurisdiction and erroneous fund transfers and adjustments.

HDL receives a 15% fee as part of the allocation audit and recovery services. In addition, the audit fee applies to state fund transfers received for back quarter reallocations and monies received in the first eight consecutive reporting quarters following completion of the allocation audit by HDL and confirmation of corrections by the State Board of Equalization. As a result of HDL's collection efforts this fiscal year for audit recovery services, HDL has collected $18,022 first quarter, $226,682 second quarter, $298,980 third quarter and $200,217 fourth quarter. Included as an attachment is the Annual Summary of City of Oxnard sales and use tax recoveries through calendar year to 2015.

Staff is requesting a first amendment with Hinderliter, de Llamas and Associates (HDL Coren & Cone) consulting agreement as the result of increased audit recovery services.

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

HDL's successful tax collection work has resulted in an additional $1,182,543 in sales tax revenue to the City. The 15% payment for recovery work amounts to $175,500. The additional revenue recovered is more than sufficient to offset the cost of services. Sufficient funding is available in the FY16-17 Budget to cover the audit cost recovery services.

ATTACHMENTS:

Attachment A: First Amendment to Agreement A-7748-17

Attachment B: Annual Summary of City of Oxnard Sales and Use Tax Recoveries through Calendar Year 2015

Agreement No. 7748-17-FN

FIRST AMENDMENT TO AGREEMENT FOR CONSULTING SERVICES

This First Amendment ("First Amendment") to the Agreement for Consulting Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 27 day of April, 2017, by and between the City of Oxnard, a municipal corporation ("City"), and Hinderliter, de Llamas and Associates (HdL Coren & Cone) ("Consultant"). This First Amendment amends the Agreement entered into on January 30, 2017, by City and Consultant.

City and Consultant agree as follows:

1. In Section 14 (a) of the Agreement, the figure $24,500 is deleted and replaced with the figure of $200,000.

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

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

CITY OF OXNARD

HINDERLITER, DE LLAMAS & ASSOCIATES

____
Greg Nyhoff, City Manager

____
Andrew Nickerson, President

____
Lloyd de Llamas, Principal

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

APPROVED AS TO CONTENT:

____
Jim Throop, Chief Financial Officer

____
Christine Williams, Project Manager

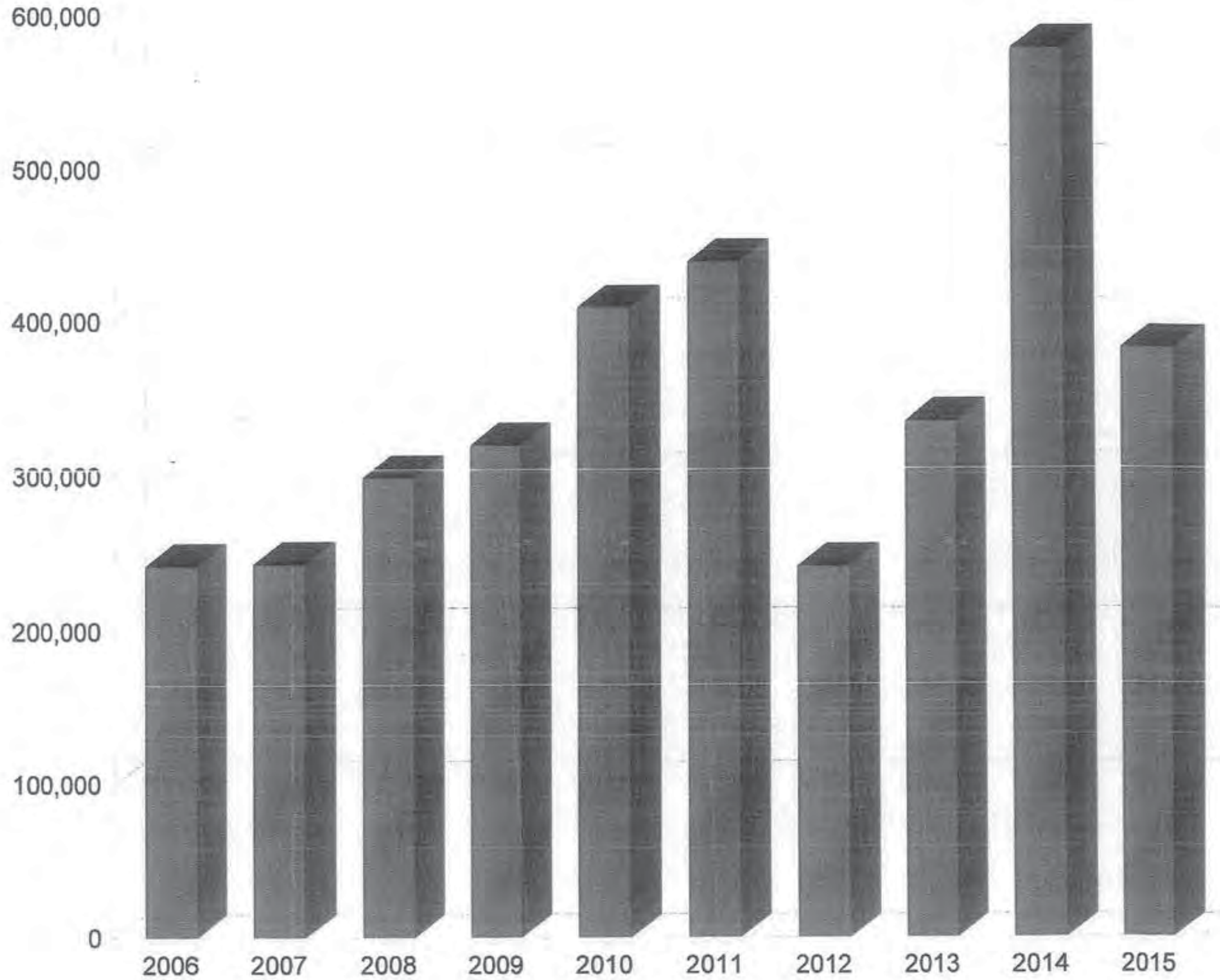
APPROVED AS TO INSURANCE:

____
Mike More, Risk Manager

HdL COMPANIES

CITY OF OXNARD

ANNUAL SALES TAX RECOVERY



2006	2007	2008	2009	2010
$241,746	$242,972	$298,660	$319,605	$409,109
2011	**2012**	**2013**	**2014**	**2015***
$439,196	$241,663	$335,006	$578,227	$382,420

Cumulative Recovery Since 2000: $4,608,437*

* 2015 dollars are estimated

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Report** **AGENDA ITEM NO.: 4**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

Greg Nyhoff

FROM: Jim Throop
Chief Financial Officer

Deanne Purcell

SUBJECT: Public Safety Tax Assessment FY2017-18. (10/25/15)

CONTACT: Jim Throop, Chief Financial Officer
Jim.Throop@oxnard.org, 385-7475

RECOMMENDATION:

That City Council adopts a resolution establishing the FY 17-18 tax rates on property in the City of Oxnard for the payment of voter approved obligations.

DISCUSSION

A special municipal election held on October 23, 1951 authorized the City to enroll its fire and police safety employees in the California State Employees' Retirement System (renamed the Public Employees' Retirement System (PERS)), and obligated the City to pay the annual costs of participation in the retirement system. Each year, the City Council adopts a resolution establishing the annual tax rate on property in the City of Oxnard for the payment of this voter-approved obligation, which is exempt from the one percent (1%) tax limitation established by Proposition 13. This tax is referred to as the "Carman Override" based upon the California Supreme Court case *Carman v. Alvord* in which the court ruled that voter approved pension costs constituted debt that could be supported by a tax levy in excess of the 1% maximum allowed by Proposition 13. Only 24 out of 486 cities in the State of California have access to this Carman Override Tax.

A 2003 court case involving the City of Huntington Beach limited costs covered by the tax to the pension costs when Proposition 13 went into effect. Costs for benefits granted after the effective date of the proposition are excluded. The City hired Bartel Associates, LLC, to complete an actuarial review to determine the amount of retirement costs that should be included in the Carman Override Tax levy for future years.

Based upon the City's actuary's analysis and the estimated eligible CalPERS costs for Fiscal 2017-18 the eligible PERS rates of Police and Fire employees' salaries that can be paid from the proceeds of the Public Safety Tax Assessment are 31.716% and 43.214%, respectively. Based on the percentages above, the total amount for FY 2017-18 that can be paid by the Public Safety Tax Assessment is $13,891,720. Total public safety retirement costs for FY 2017-18 are estimated at $18.6 million.

The Public Safety Tax Assessment generated a total of $9,594,174 in FY 2016-17 from the assessed valuation of $17,334,414,020 Secured and 1,007,291,918 Unsecured, generating excess revenue of $2,615,515.

A total amount of $1,160,859 will be credited against the required revenue in FY 2017-18 to produce a lower net tax rate. The formula used for determining that credit for FY 2017-18 is as follows:

Beginning Cash Balance (Fund 119) @ July 1, 2016	$ 2,615,515
Plus: Actual Revenue Received through April 30, 2017	9,594,174
Less: Estimated Expenditures FY 2016-17	(11,048,830)
Less: Reserve for Cash Flow (One Pay Period's Expenditures)	(450,000)
Total Amount to Apply Against Budgeted Expenditures FY 2017-18	$ 710,859

Based upon final Gross Secured and Unsecured Assessed Valuation (AV) in FY 2016-17 in District I (see below) of $18,112,445,774 Secured, and 1,053,079,012 Unsecured, the total tax rate to generate $13,180,861 (e.g., $13,891,720 the prior year balance of $710,859) to contribute toward eligible Police and Fire retirement costs is $0.068774 per $100 of AV. As an example, for every $100,000 in assessed valuation, a property owner will pay $68.77, compared to $47.43 in FY 2016-17. The maximum tax rate for the Carman Override Tax is $0.076637 per $100 of AV.
The recommended budget for FY 2017-18 will include approximately 98 fire positions and 221 police positions covered under the voter approved authorization.

Tax Districts

The City has two districts, District I and District IV. District IV consists of property that in December 1969 was annexed to the City, but not to District I. The City's tax rate for voter-approved obligations applies only in District I.
All annexations to the City now also require annexation to Tax District I, making the annexed area liable for voter-approved indebtedness of the City.

FINANCIAL IMPACT

The estimated retirement cost for FY 2017-18 for 319 public safety employees is $18.6 million. A net amount of $13.2 million of this amount is being levied through the Public Safety Tax Assessment after deducting the estimated Public Safety Retirement Fund balance at June 30, 2017 of $710 thousand, resulting in a tax rate of $0.068774 per $100 of AV. The remaining balance of $5.4 million is budgeted in other operating funds for FY 2017-18.

ATTACHMENTS:

Attachment A: Public Safety Tax Assessment Resolution

RESOLUTION NO.___________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ESTABLISHING THE FISCAL YEAR 2017-18 PROPERTY TAX RATE FOR VOTER APPROVED OBLIGATIONS

WHEREAS, Section 2237.2 of the Revenue and Taxation Code requires that within 90 days of the end of the fiscal year, the City report to the County Controller the tax rate and total revenues expected to be generated in the current fiscal year for voter approved obligations; and

WHEREAS, the City's adopted budget for the Fiscal Year 2017-18 appropriates monies required to pay voter approved obligations of the City; and

WHEREAS, the Ventura County Auditor-Controller provided an estimated assessed valuation of City tax districts for tax rate purposes.

NOW, THEREFORE, the City Council of the City of Oxnard hereby determines and resolves that the following amounts of revenue from property taxes are required for the current fiscal year to pay the City's obligation for public safety retirement expenditures:

	Total Property Taxes From Current Tax Rates On Secured and Unsecured Assessed Values
Public Safety Retirement Fund	
Total Property Taxes from Current Tax Rates on Secured and Unsecured Roll Assessed Values	$13,200,000

The City Council of the City of Oxnard further resolves that for the purpose of raising such revenue the rates of taxation for the different portions of the City are hereby fixed and taxes are hereby levied on the taxable property in the City for the fiscal year beginning July 1, 2017, in the number of dollars upon each one hundred dollars of the assessed value of the property as assessed by the County Assessor and equalized by the Board of Equalization of the County of Ventura as set forth in the following table. The taxes levied upon property in each portion of the City hereinafter described and designated by a tax district number is at the rate set in the column headed by the tax district number which is prefixed to the description of such portion of the City as hereinafter stated.

TAX DISTRICT I

All territory included within the boundaries of the City, as originally incorporated, and all territory annexed to the City by action of the City Council by annexation proceedings, excepting there from Annexation No. 69-9.

TAX DISTRICT IV

All territory annexed to the City by action of the City Council as described in Ordinance

No. 1255, adopted November 12, 1969, to become effective December 12, 1969, known and referred to Annexation No. 69-9 (Rancho La Ribera).

	DISTRICT I	**DISTRICT IV**
Public Safety Retirement Fund Tax Rate Required (Per Mil)	0.068774	-0-
Total Tax District Tax Rates (Per Mil)	0.068774	-0-

The City Council of the City of Oxnard further resolves that the foregoing tax rate is determined to be necessary to provide revenues required for the stated purpose during the period specified; that the City Council does hereby levy this sum on the property in such tax districts for Fiscal Year 2017-18; that in accordance with Government Code Section 36936.1, the City Clerk is instructed to cause this resolution to be published one time in the newspaper within 15 days after adoption; and that the City Clerk is instructed to transmit immediately to the County Auditor a certified copy of this resolution.

PASSED AND ADOPTED this _____ day of June, 2017, by the following vote:

AYES:

NOES:

ABSENT:

____
Tim Flynn, Mayor

ATTEST:

____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Info/Consent** **AGENDA ITEM NO.: 5**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

Greg Nyhoff

FROM: Steve Naveau
Director of Human Resources

Steve Naveau

SUBJECT: A Resolution of the City Council of the City of Oxnard Establishing Rules for the Application of Compensation Rates and Benefit Levels for Unrepresented Executive, Unrepresented Mid-Managers, and Unrepresented Confidential Employees through September 2019

CONTACT: Steve Naveau, Director of Human Resources
Steve.Naveau@oxnard.org, 385-7947

RECOMMENDATION:

That City Council adopt the resolution regarding compensation rates and benefit levels for Unrepresented Executive, Unrepresented Mid-Managers, and Unrepresented Confidential Employees through September 2019.

BACKGROUND

The attached resolution provides pay and benefit adjustments to employees in the confidential, unrepresented, and executive group commensurate with that provided recently to employees in the International Union of Operating Engineers (IUOE), Oxnard Mid-Managers (OMMA), and Service Employees International Union (SEIU). Generally, the unrepresented group has changes to their terms and conditions made once these other groups have settled their contracts. As such, the specific changes to the resolution provided below is consistent with what has been previously presented to Council. It should be noted that employees in this group have not received pay increases since 2014.

Term: Resolution expires September 30, 2019.

Pension Contribution: Classic non-safety employees will pay 100% of the employee contribution by the end of the contract. Safety employees will pay 7% of the 9% commensurate with the employees in the bargaining units they manage.

- Effective following Council adoption: 3% pension contribution
- Effective January 2018: 1% pension contribution
- Effective July 2019: 3% pension contribution

The Executive team began picking up 5% of the 7% contribution in January 2016. The remaining 2% pension contribution will be picked up by the executive team effective July 2019.

Salary: Wage increases of 10.5% over the term of the resolution

- Effective following City Council adoption: 2% wage increase
- Effective January 2018: 2% wage increase
- Effective July 2018: 2% wage increase
- Effective July 2019: 3% wage increase
- Effective September 30, 2019: 1.5% wage increase

Miscellaneous Terms:
Consistent with other bargaining units, employees in the executive group will be eligible for an annual 3% merit increase based on satisfactory performance.

Add two additional ½ day holidays on Christmas Eve and New Year's Eve, and one additional holiday being the day after Thanksgiving to make the holiday provision consistent with the City-wide holiday calendar.

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 total cost for the three year term is $221,000 over the original forecast. This cost has already been budgeted for in the FY17/18 budget.

ATTACHMENTS:

Attachment A: 2017-06-27 Salary Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ESTABLISHING RULES FOR THE APPLICATION OF COMPENSATION RATES AND BENEFIT LEVELS FOR UNREPRESENTED EXECUTIVE, UNREPRESENTED MID-MANAGEMENT AND UNREPRESENTED CONFIDENTIAL EMPLOYEES THROUGH SEPTEMBER 2019

RESOLVED, by the City Council of the City of Oxnard, as follows:

Section I. Applicability

A. General. Employees subject to this Resolution are classified as at least one of the following: Executive, Confidential, Unrepresented Mid-Management.

B. Council Authority Necessary to Amend Resolution. Any exception to these provisions must be authorized by the City Council prior to the action, or in the case of a bona fide emergency, at the next scheduled City Council meeting following the action. Actions are submitted through the agenda process by the City Manager or the Human Resources Director, as applicable, in open session or through the City Attorney in closed session as permitted under the Brown Act and ultimately placed on the City Council's open agenda prior to final approval. California Constitution Article XI incorporates the concept derived from principles of public accountability that government employees should not be paid for time not worked, for services not performed or authorized due to the need to be accountable to the taxpayers for the expenditure of public funds. (Contravention of this provision is referred to as a "gift of public funds.") Therefore, the City, as a subdivision of the State, must abide by the provisions of this Section in its compensation policies and practices.

Section II. Hours of Work

A. Core Business Hours

i. The City's core business hours are 9:00 a.m. to 5:00 p.m., Monday through Friday, with City offices being closed on alternating Fridays. Employees who work in departments with 24-hour operations shall be excluded from this section. Employees subject to this section are expected to be on-site during core business hours, regardless of their status as exempt or non-exempt employees.

B. Work Schedules

i. The City work schedules include 3/12, 4/10, and 9/80. The City shall establish and modify work schedules for all employees based on operational necessity to provide services to the public.

C. Definition of full time/part time employment

i. Full time employees are employees who are regularly scheduled to work forty (40) hours per workweek. Part time employees are employees who are regularly scheduled to work less than forty (40) hours per workweek.

Section III. Salaries

A. The following salary increases are provided:

i. Effective the first full pay period following adoption of this Resolution by the City Council, Unrepresented Confidential Employees, Unrepresented Confidential Mid-Management Employees and Unrepresented Executive Employees shall receive a two percent (2.0%) increase in base wages.

ii. Effective the first full pay period following January 1, 2018, Unrepresented Confidential Employees, Unrepresented Confidential Mid-Management Employees and Unrepresented Executive Employees shall receive a two percent (2.0%) increase in base wages.

iii. Effective the first full pay period following July 1, 2018, Unrepresented Confidential Employees, Unrepresented Confidential Mid-Management Employees and Unrepresented Executive Employees shall receive a two percent (2.0%) increase in base wages.

iv. Effective the first full pay period following July 1, 2019, Unrepresented Confidential Employees, Unrepresented Confidential Mid-Management Employees and Unrepresented Executive Employees shall receive a three percent (3.0%) increase in base wages.

v. Effective September 30, 2019, Unrepresented Confidential Employees, Unrepresented Confidential Mid-Management Employees and Unrepresented Executive Employees shall receive a one and one half percent (1.5%) increase in base wages.

Employees in classifications assigned only to the unrepresented group will be paid in accordance with the hourly rate established in the annual classification and salary resolution. Such rates will be increased as described above.

Employees who are designated as confidential and are assigned to a classification represented by a bargaining group, shall be paid an hourly rate which is in accordance with that bargaining unit's MOU.

B. Wages for Temporary and Part-Time Employees

i. Temporary and part-time employees shall be paid on an hourly basis for hours actually worked, subject to the provisions of the Fair Labor Standards Act, which provides for overtime compensation for hours worked in excess of forty (40) per workweek.

ii. Unrepresented temporary and/or part-time employees who are employed in classifications that are represented shall be paid on the same salary scale as listed for the represented employee in the same class.

iii. Any such employee in a class having a monthly salary rate shall be paid an hourly rate that is converted from the monthly salary for that class.

C. Pay Periods

i. Each pay period shall cover fourteen (14) consecutive calendar days and there shall be twenty-six pay periods per calendar year.

D. Exempt Employees

i. Employees in classes that have been deemed "exempt" shall not be entitled to payment or compensatory time off for overtime as provided for in the rules and regulations of the Fair Labor Standards Act.

ii. In accordance with the rules and regulations of the Fair Labor Standards Act, the base salary of exempt employees shall not be reduced due to variations in the quality or quantity of the work performed. Any reduction in wages that are a result of discipline will comply with the Fair Labor Standards Act.

E. Merit Increases

i. Effective beginning January 2018, Unrepresented Confidential Mid-Management Employees and Unrepresented Executive Employees who receive a satisfactory performance evaluation during the preceding calendar year will be eligible for a merit increase of not less than three percent (3.0%) within that employee’s salary range. Notwithstanding the foregoing, if an employee is less than three percent (3.0%) from the top of the range, the increase shall be to the top of the salary range. Confidential non-management employees will receive a merit increase each year equivalent to one step on the range for their classification.

ii. When the City Manager determines that an Unrepresented Confidential Mid-Management Employee or an Unrepresented Executive Employee has demonstrated an exceptional level of job performance and efficiency, the City Manager may grant a merit increase in excess of three percent (3.0%). Such an increase must be based upon the applicable Department Director’s recommendation for Unrepresented Confidential Mid-Management Employees. No merit increase shall cause an employee’s salary to exceed the top of the salary matrix established for the classification. No advancement shall be given to any member whose most recent performance evaluation rating was “unsatisfactory,” or “needs improvement.”

iii. Eligible employees will receive their annual merit increase effective the first full pay period of January. Newly hired employees or employees promoted during the preceding calendar year will have their merit increase pro-rated based on their service during the calendar year (for example, an eligible employee with six months of service in a classification in calendar year 2018 will receive not less than a 1.5% merit increase in January 2019.)

F. Salary Upon Employment

i. When an appointment is made to a budgeted position, the starting pay will normally be the minimum rate set forth in the applicable salary range and advancement to rates greater than the minimum rate shall be within the limits of the salary range for the applicable classification.

ii. In exceptional cases after reasonable effort has been made to obtain employees for a particular class at the minimum rate, employment of individuals who possess special qualifications higher than the minimum qualifications prescribed for the particular class may be authorized at a higher rate than the minimum upon recommendation from the Department Head with the approval of the City Manager. In no event shall an individual's salary rate exceed the maximum limit of the salary range for the applicable classification.

G. Salary Upon Reinstatement Following Voluntary Separation

i. An Unrepresented Confidential Employee or an Unrepresented Mid-Management Employee who has resigned from City service in good standing may apply for reinstatement within one year of his or her resignation to the position he or she left, if vacant, by means of a written request. If the City Manager approves reinstatement, the applicant may be reemployed in the same job classification as occupied upon resignation at the same or in a lower salary range as paid at the time of resignation. Such employee will have no other rights, privileges, or benefits accrued by him/her in his/her previous employment. This section will not apply to reinstatement after military service.

ii. This provision shall not apply to Unrepresented Executive Employees or any other employee who is employed on an "at will" basis.

H. Salary and Benefits Upon Restoration or Reemployment Following Reduction in Force

i. An Unrepresented Confidential Employee or an Unrepresented Mid-Management Employee who is demoted as a result of a reduction in force shall have the employee's name placed on a classification reinstatement list, in the order of the City Length of Service. Vacant positions within a classification shall be first offered to employees on this reinstatement list.

An Unrepresented Confidential Employee or an Unrepresented Mid-Management Employee who has been laid off shall have his or her name placed on a reemployment list for classifications in which the employee previously held and for classifications at the same or lower salary range for which the employee qualifies in the order of the City Length of Service. Vacant positions in such classifications will be offered to employees on the reemployment list after employees on the reinstatement list have been reinstated, and prior to an open or promotional recruitment to fill vacant positions in that classification.

ii. Upon reemployment following a layoff due to a reduction in force, an individual will have the following benefits restored:

a. Seniority at time of layoff for purposes of determining step increases, annual leave accrual and future layoff priority.

b. Base wages paid to an employee who is reemployed in the same classification he/she held at time of layoff shall be the base wages then in effect for the salary range and step the employee held at the time of layoff. If the employee chooses to be reemployed in a classification which has a salary range lower than the classification from which he/she was laid off, then the base wages shall be those at the step in the lower salary range that is closest to his/her base wages immediately prior to layoff, then the employee shall receive the maximum base wages provided in such salary range.

iii. This provision shall not apply to Unrepresented Executive Employees or any other employee who is employed on an "at will" basis.

I. Duration of Lists

i. The name of an Unrepresented Confidential Employee or an Unrepresented Mid-Management Employee shall remain on the reinstatement list and reemployment list for a period of two (2) years from the date of demotion or layoff. Such an employee who does responding to written notification of an opening within nine (9) working days shall have the employee's name removed from either the reemployment list or reinstatement list.

ii. This provision shall not apply to Unrepresented Executive Employees or any other employee who is employed on an "at will" basis.

J. Salary Upon Promotion

i. The beginning base wage for promotions shall be the next highest step on the applicable step range or, shall place the employee at the bottom of the range of the position into which the employee is promoted.

K. Salary Upon Temporary Promotion

i. A qualified employee, as determined and approved by the Director of Human Resources, may be assigned to a higher classification to fill a vacancy caused by an approved leave of absence or any other valid vacancy.

ii. Upon temporary promotion, an employee will receive either the minimum of the new pay/salary range or ten percent (10%) over their present rate of pay, whichever is greater and which will not exceed the new pay/salary range maximum. The change in pay/salary related to the promotion shall be effective at the start of the first full pay period following such promotion. The temporarily promoted employee shall not receive any other benefit assigned to the higher classification that they are not already receiving.

L. Interim/Acting Department Head Assignment Pay

i. An employee who has been designated by the City Manager as Interim/Acting Department Head shall vacate the current classification and assume the higher classification for the duration of the assignment, and shall receive an assignment pay of ten percent (10%) above his/her present rate of pay. In no case shall such pay/salary adjustment place the employee beyond the pay/salary range of the position to which they have been temporarily promoted.

The change in pay/salary related to the assignment of Interim/Acting Department Head shall be effective at the start of the first full pay period following such assignment by the City Manager. The Interim/Acting Department Head shall not receive any other benefit assigned to the higher classification that they are not already receiving.

M. Automobile Allowance

i. Unrepresented Executive Employees positions will be provided a biweekly automobile allowance as follows:

a.	Assistant City Manager	$184.62
b.	Department Head:	$161.54

ii. Eligible employees who receive approval to use a City vehicle instead of receiving an automobile allowance shall have computations of other benefits/compensation calculated as if they received an allowance.

iii. Mileage reimbursement for local in County travel will not be reimbursed if the employee receives a car allowance. Mileage reimbursement shall be approved for out of area business travel at a rate equivalent to the standard mileage rate established by proclamation of the Internal Revenue Service.

Section IV. Overtime and Compensatory Time Off for Unrepresented Confidential Employees

A. Unrepresented Confidential Employees who are not designated as "exempt" for purposes of the Fair Labor Standards Act shall be eligible to receive overtime payment if an employee is required by his or her supervisor to work in excess of forty (40) hours in a single FLSA work period. Overtime compensation shall be paid at one-and-one half times his or her regular rate of pay, which includes base wages, bilingual pay, longevity pay, confidential pay and educational incentive pay, as applicable.

B. Unrepresented Confidential Employees who are not designated as "exempt" for purposes of the Fair Labor Standards Act may elect to receive compensatory time off in lieu of payment for overtime worked. Such employees shall accrue compensatory time off at the rate of one and one half hours for each overtime hour worked, up to a maximum accumulation of eighty (80) hours. The request for compensatory time off in lieu of payment for overtime worked shall be made at the time the overtime is worked. The City shall automatically cash out any compensatory time off accruals in excess of eighty (80) hours during the month of

July.

Section V. Other Compensation Provisions

A. Mileage for Travel Outside City Limits

i. When employees are required by City to use their personal vehicle to perform their assigned duties for City, and they so utilize their own vehicles in traveling directly and uninterruptedly from one assigned work location to another assigned work location, at least one of which is located outside of the City limits, City shall compensate the employee. Employees shall make claims for mileage compensation that are consistent with current IRS rates on City designated forms.

B. Bilingual Pay

i. Rate of Bilingual Pay

a. A regular, full-time Unrepresented Confidential Employee may receive bilingual pay at the rate of twenty dollars ($20.00) biweekly to the extent the employee is required to provide bilingual services as determined by the City Manager or designee.

ii. Conditions for Receipt

a. Bilingual pay shall be paid subject to the employee satisfying the following conditions:

1. The employee's position has been designated by the City Manager or designee as one qualifying for bilingual pay on the basis that:

i. The predominant and primary focus of the position is to communicate in person or by telephone with members of the public in connection with providing City services and the employee on a regular ongoing basis in the course of carrying out usual job duties, is called upon to utilize a language other than English in communicating with the members of the public, or

ii. On a regular, daily basis the employee is called upon by the City to provide a language other than English interpretation or translation services for other City employees in connection with the performance of the usual job duties of such other employees; or

iii. The employee is determined by the City Manager or designee to be fluent in a language other than English and the employee possesses and displays a sensitivity for the cultural needs of the City's other than English speaking population.

C. Longevity Pay

i. Unrepresented non-Management Confidential Employees who have completed five (5) regular full- time years of service shall be paid a sum equal to one percent (1%) of the base wages paid to the employee. Unrepresented Confidential Employees who have completed ten (10) regular full-time years of service shall be paid a sum equal to an additional one percent (1%), making a total of two percent (2%) of the base wages paid to the employee. Unrepresented Confidential Employees who have completed fifteen (15) regular full-time years of service shall be paid a sum equal to an additional one percent (1%), making a total of three percent (3%) of the base wages paid to the employee. The additional payment for longevity of service shall be made at each time any installment of base wages is made to the employee.

D. Tuition Reimbursement

i. City shall pay for seventy five (75%) percent of tuition, registration fees, laboratory fees, campus parking fees and books, up to a maximum of $5,000 per calendar year for work-related courses provided by accredited academic institutions, subject to the following conditions:

ii. Only full-time employees shall be eligible for reimbursement. To be eligible, an employee must complete and submit the tuition reimbursement pre-approval form to the Human Resources Department.

iii. Courses that qualify for reimbursement are those that directly relate to the employee’s duties with the City or that directly relate to and are part of a planned course of study being actively pursued for promotion within City service, that are presented by an accredited high school, college, university or other accredited institution, and that are satisfactorily completed with a grade of “C” or higher.

iv. Courses that do not qualify for reimbursement are those taken to bring unsatisfactory job performance up to an acceptable level, those duplicating in-service training or other training the employee has already received, and those for which the employee received reimbursement from any other source.

v. To receive reimbursement, the employee must submit acknowledgement of a “C” or better to the Human Resources Department within thirty (30) days of completion of the course of study.

vi. There shall be no obligation for City to re-schedule the work hours of any employee to facilitate attendance at any course of study.

E. Education Incentive Award Program

i. Non-management confidential employees shall be eligible to receive an educational incentive award, in addition to base wages, for educational attainments not specifically required by the Unit employee’s classification pursuant to the official class specifications maintained by the Human Resources Department. The education incentive award shall be related to the attainment of the following degrees:

- Associates in Arts/Science Degree – 2.5%
- Bachelor's Degree – 3%
- Graduate Degree – 3.5%

ii. Employees eligible for an educational incentive award shall be entitled to receive only one level of educational incentive award for the highest degree attained. Incentive awards shall be granted pursuant to this section only after submission, by the employee, of the official transcripts noting the degree which has been earned, to the Human Resources Department.

Section VI. Holidays

A. Observed holidays include:

New Year's Day (January 1st)
Martin Luther King's Day (the third Monday in January)
Presidents' Day (the third Monday in February)
Cesar Chavez Day (March 31)
Memorial Day (the last Monday in May)
Independence Day (July 4th)
Labor Day (the first Monday in September)
Veterans' Day (November 11th)
Thanksgiving Day
The day after Thanksgiving
Christmas Eve half day (December 24th)
Christmas Day (December 25th)
New Year's Eve half day (December 31st)

Employees shall be entitled to holiday pay if an observed holiday falls on an employee's regularly scheduled workday and if the employee is in paid status on the day before or the day after an observed holiday.

B. Work on Holidays

i. Unrepresented Confidential Employees required to work on a City-observed holiday shall be paid one and one-half their regular rate of pay for hours actually worked, or receive compensatory time off, subject to the accrual cap set forth in Section VII, at the rate of one and one half times hours actually worked on the holiday, in addition to receiving straight time pay for said holiday. In order for such an employee to qualify for overtime pay under this section, such employee's regularly scheduled workday must fall on the day before and/or the day after such holiday.

C. Holidays on Weekends

i. City observed holidays that fall on Sunday shall be observed on the following Monday. City observed holidays that fall on Saturday shall be observed on the preceding Friday.

Section VII. Paid Leaves

A. Annual Leave

i. Accrual Levels

Unrepresented Confidential Employees and Unrepresented Mid-Management Employees will accrue annual leave based on the following schedule:

Years of Service	Months of Service	Biweekly Accruals	Annual Accrual	Maximum Accrual
<5	0-59	6.24	162.24	324.48
5-6	60-71	7.47	194.22	388.44
6-7	72-83	7.78	202.28	404.56
7-8	84-95	8.09	210.34	420.68
8-9	96-107	8.40	218.40	436.80
9-10	108-119	8.70	226.20	452.40
10-11	120-131	9.54	248.04	496.08
11-12	132-143	9.85	256.10	512.20
12-13	144-155	10-16	264.16	528.32
13-14	156-167	10.46	271.96	543.92
14-15	168-179	10.77	280.02	560.04
15+	180+	11.78	306.28	612.56

Unrepresented Executive Employees will accrue annual leave based on the following schedule:

Years of Service	Months of Service	Biweekly Accruals	Annual Accrual	Maximum Accrual
<2	0-23	7.16	186.16	372.34
2-5	24-59	9.62	250.12	500.24
5	60+	12.08	314.08	628.16

ii. Usage

a. Accrued annual leave may be taken at one day at a time, or it may be taken several days at a time. The annual leave is to be scheduled between the employee and his or her supervisor in such a manner that such employee's absence will not impair division operations.

iii. Maximum Annual Leave Accrual

a. Once an employee reaches his or her maximum annual leave accrual, he or she will not be permitted to accrue any additional annual leave until he or she uses sufficient annual leave so as to bring his or her annual leave balance below the applicable cap. Accrual will recommence in the following pay period.

iv. Redemption

a. After five (5) years of regular full-time service, an Unrepresented Confidential Employee or an Unrepresented Mid-Management Employee may receive pay in lieu of up to forty (40) hours of annual leave provided that funds are allocated to cover these costs in the employee's department's budget and that such employee has taken at least forty (40) hours of annual leave in the preceding twelve (12) months.

b. After ten (10) years of regular full-time service, an Unrepresented Confidential Employee or an Unrepresented Mid-Management Employee may receive pay in lieu of up to eighty (80) hours of annual leave provided that funds are allocated to cover these costs in the employee's department's budget and that such employee has taken at least eighty (80) hours of annual leave in the preceding twelve (12) months.

c. Unrepresented Executive Employee, regardless of full-time years of service, may receive pay for redemption of up to eighty (80) hours of annual leave during each calendar year.

d. All requests for annual leave redemption must be made by the employee, in writing, using a City form and, said requests must be submitted to the City's payroll department during the months of July and December for the employee to receive the redemption.

e. Pay under this subsection shall be calculated based on base wages, longevity pay, educational incentive pay, confidential pay, and bilingual pay, as applicable.

v. Payment Upon Separation

a. Any employee who leaves the service of the City shall be paid for accrued annual leave to which such employee is otherwise entitled at his/her then current base wages plus longevity pay, educational incentive pay, confidential pay, and bilingual pay, as applicable, as of the effective date of separation from City service.

vi. Discontinuance of Reserve Leave Program and Treatment of Accrued Reserve Leave.

a. If an employee were previously permitted to create and maintain a reserve leave bank, such employee's reserve leave bank balance will remain available for use by employees as annual leave, subject to the conditions for use set forth in this section. Employees will no longer be permitted to add additional hours to their reserve leave banks and new employees will not be permitted to create reserve leave banks.

B. Administrative Leave

i. Full time Unrepresented Mid-Management Employees in permanent positions who classified as "exempt" for purposes of the Fair Labor Standards Act, such that they are not eligible for payment of overtime or an equivalent amount of compensatory time off shall be granted administrative leave. At the start of each fiscal year, such employees will be granted forty (40) hours of administrative leave.

ii. Full time Unrepresented Executive Employees in permanent positions who classified as "exempt" for purposes of the Fair Labor Standards Act, such that they are not eligible for payment of overtime or an equivalent amount of compensatory time off shall be granted administrative leave. At the start of each fiscal year, such employees will be granted eighty (80) hours of administrative leave.

iii. Administrative leave not taken during the fiscal year in which it is granted shall not be carried over to the subsequent fiscal year; employees shall not be permitted to maintain an administrative leave balance in excess of forty (40) hours for Unrepresented Mid-Management Employees or eighty (80) hours for Unrepresented Executive Employees. Administrative Leave has no cash value and cannot be cashed out if unused at the end of the fiscal year in which it was granted or upon separation.

iv. Administrative leave shall be scheduled at the convenience of the employee's department and must be approved by the employee's supervisor prior to its use.

C. Bereavement Leave

i. The Department Director/ Division Supervising Manager may grant up to three (3) days' leave of absence with pay to any eligible employee on the death of any member of the employee's immediate family.

ii. Immediate family shall include the following individuals related to the employee or the employee's spouse or domestic partner by reason of blood line, marriage, adoption or foster care: parents, grandparents, spouse, spouse's parents, brother(s), sister(s), child(ren), son(s)-in-law, daughter(s)-in-law, grandchild(ren), great grandchild(ren), registered domestic partner, and any blood relative(s) living in the immediate household.

iii. Immediately upon return from bereavement leave, the employee shall furnish to the Department Director/ Division Supervising Manager some evidence of the death, e.g., a newspaper clipping, obituary notice, funeral card, or other record of death. If such evidence is not provided, the bereavement leave shall be converted to leave without pay.

D. Workers' Compensation

i. Employees who are injured or become ill in the course of employment shall be paid in accordance with the applicable workers' compensation laws of the State of California.

E. Military Leave

i. Employees shall be entitled to the military leave benefits as provided in the California Military and Veterans Code, or as otherwise enhanced by City Council action.

F. Jury Duty and Court Appearances Within Scope of Duties

i. Conditions

If an employee is called for jury duty or is subpoenaed as a witness in litigation as a result of the employee's official duties with the City, he/she shall be granted a leave of absence with pay provided that:

a. The employee's supervisor has been notified by the employee of the jury duty summons or witness subpoena.

b. The employee refunds to City fees received for jury duty or witness service except travel and actual expense reimbursement as follows:

1. An employee summoned for and assigned jury duty for five (5) days or less may retain the jury service fee paid for jury service.

2. An employee summoned for and assigned jury duty for five days or less may decline payment of the jury service fee.

3. An employee summoned for and assigned jury duty for six (6) or more days is required to accept the payment for jury service and to refund to the City Treasurer all fees for jury service except travel reimbursement.

ii. Amount Limited

a. The leave of absence with pay for witness duty is limited to twenty-four (24) hours in any calendar year.

Section VIII. Health and Welfare Benefits

A. Health Insurance

i. The City offers affordable health coverage that meets minimum value standards under the Patient Protection and Affordable Care Act (PPACA) to all eligible employees. An eligible employee is one who qualifies under the Look Back Measurement Safe Harbor (average of 30 hours per week), as adopted by Resolution and implemented under the City's implementation plan.

ii. The City offers health coverage under the Public Employees' Medical and Hospital Care Act ("PEMHCA"). In accordance with the requirements of PEMHCA, the City shall make a direct contribution of $128 per month towards active employees' health care costs in calendar year 2017. This amount is equal to the statutory minimum contribution set by CalPERS and is subject to change as further required by CalPERS.

iii. In addition to the direct PEMHCA contribution described above, the City will make an additional contribution towards a cafeteria plan for active employees. The City's cafeteria plan contribution for Unrepresented Executive Employees and Unrepresented Mid-Management Employees shall equal $242.31 per bi-weekly pay period and shall equal $332.01 per bi-weekly pay period for Unrepresented Confidential Employees.

B. Dental Insurance

i. The City shall contribute the sum of thirty dollars and eighty three cents ($30.83) biweekly to the employee's dental insurance cafeteria plan for dental programs provided by the City. Regular full time employees that are employees for more than ninety (90) days and who "opt-out" of dental coverage will receive $30.83 bi-weekly additional taxable income.

C. Flex Spending Plan

i. Employees may participate in the voluntary Flex Spending Plan so long the plan is offered by the City and permitted under IRS rules and regulations.

D. Wellness Program

i. Employees may participate in the City wellness program as described in the Personnel Policies which includes an annual reimbursement cap of $500 for eligible expenses.

Section IX. Term Life Insurance

A. The City shall provide a term life insurance policy to all employees covered by this Resolution in the amount of five thousand dollars ($5,000). Additionally, Unrepresented

Mid-Managers and Unrepresented Executive Employees will be provided a term life insurance policy of one time their annual salary. City-provided life insurance coverage is only in effect as long as the employee is employed by the City. Additional group term life insurance may be purchased by the individual employee.

Section X. Deferred Compensation

A. Employees shall be permitted to participate in the City's section 457 deferred compensation plan for as long as such a plan is maintained by the City. Unrepresented Confidential Employees and Unrepresented Mid-Management Employees will also have the option to convert up to forty (40) hours of accrued vacation or annual leave for deposit into a section 457 deferred compensation plan each calendar year. Unrepresented Executive Employees will have the option to convert up to eighty (80) hours of accrued vacation or annual leave for deposit into a section 457 deferred compensation plan each calendar year.

B. The City shall make a non-elective employer contribution of three percent (3%) of employee base pay/salary to the City-sponsored and designated deferred compensation plan for all permanent Unrepresented Executive Employees.

Section XI. Family and Medical Leave

Employees shall be permitted to request leave pursuant to, and consistent with, the Family and Medical Leave Act and any applicable City policy.

Section XII. Retirement

A. CalPERS Retirement for Miscellaneous Employees Hired before January 1, 2013

i. The City's contract with CalPERS provides for the two percent (2%) at age fifty-five (55) retirement formula.

ii. The City's contract with CalPERS provides for the "Single Highest Year" retirement benefit.

iii. For permanent miscellaneous Unrepresented Executive Employees:

a. Effective January 2, 2016, the City shall pay two percent (2%) of pensionable compensation directly to CalPERS as an Employer Paid Member Contribution ("EPMC”). The City shall report the same percent value to CalPERS as compensation earnable, pursuant to California Government Code Section 20636(c)(4), the City's payment of the EPMC. Miscellaneous Unrepresented Executive Employees shall be responsible for paying the remaining five percent (5%) of the employee share of CalPERS costs through payroll deductions.

b. Effective the first full pay period following July 1, 2019, miscellaneous Unrepresented Executive Miscellaneous Employees shall pay an additional two percent (2.0%) of pensionable compensation towards the employee share of CalPERS costs for a total of seven percent (7.0%).

iv. For Unrepresented Confidential Employees and Unrepresented Mid-Management Employees:

a. Effective the first full pay period following City Council adoption of this Resolution, employees shall pay three percent (3.0%) of pensionable compensation towards the required employee contribution to PERS. The employee contribution, as determined by CalPERS, is presently set at seven percent (7.0%) of pensionable compensation. The City shall pay the remaining four percent (4.0%) of the required employee contribution. The City shall report the same percent value to CalPERS as compensation earnable, pursuant to California Government Code section 20636(c)(4), the City's payment of the EPMC.

b. Effective the first full pay period following January 1, 2018, employees shall pay an additional one percent (1.0%) of pensionable compensation to CalPERS towards the employee costs of the retirement benefit for a total of four percent (4.0%). The City shall pay the remaining three percent (3.0%) of the member contribution directly to CalPERS. The City shall report the same percent value to CalPERS as compensation earnable, pursuant to California Government Code section 20636(c)(4), the City's payment of the EPMC.

c. Effective the first full pay period following July 1, 2019, employees shall pay an additional three percent (3.0%) of pensionable compensation to CalPERS toward the employee costs of the retirement benefit for a total of seven percent (7.0%).

v. The City has adopted the CalPERS resolution in accordance with IRS Code section 414(h)(2) to ensure that the employee contribution is made on a pre-tax basis.

B. CalPERS Retirement for Miscellaneous Employees Hired on or after January l, 2013

i. "New Members", as defined by the Public Employees' Pension Reform Act ("PEPRA") are covered by the two percent (2%) at age sixty two (62) retirement formula.

ii. New Members' retirement benefit will be based on the highest 36 consecutive months of compensation earnable.

iii. New Members will pay an employee contribution to CalPERS at the rate of fifty percent (50%) of the total "normal cost" of the plan as defined by CalPERS. This amount may change from year to year, as determined by CalPERS. This employee contribution will be paid through a payroll deduction.

iv. The City has adopted the CalPERS resolution in accordance with IRS Code section 414(h)(2) to ensure that the employee contribution is made on a pre-tax basis.

v. The City's contract with CalPERS contains the Fourth Level Survivor Benefit and Military Service Credit for all employees.

C. <u>CalPERS Retirement for Safety Employees Hired before January 1, 2013</u>

i. The City's contract with CalPERS provides for the three percent (3%) at age fifty (50) retirement formula.

ii. The City's contract with CalPERS provides for the "Single Highest Year" retirement benefit.

iii. For permanent safety Unrepresented Executive Employees:

a. Effective January 2, 2016, the City shall pay four percent (4%) of the employee normal contribution directly to CalPERS as an Employer Paid Member Contribution ("EPMC"). The City shall report to CalPERS as compensation earnable pursuant to California Government Code section 20636(c)(4) the City's payment of required employee retirement contributions to CalPERS. Unrepresented Top Management Safety Employees shall be responsible for paying the remaining five percent (5%) normal contribution through payroll deductions.

b. Effective the first full pay period following July 1, 2019, safety Unrepresented Executive Employees shall pay an additional two percent (2.0%) of pensionable compensation towards the employee share of CalPERS costs for a total of seven percent (7%).

iv. The City has adopted the CalPERS resolution in accordance with IRS Code section 414(h)(2) to ensure that the employee contribution is made on a pre-tax basis.

D. <u>CalPERS Retirement for Safety Employees Hired on or after January 1, 2013</u>

i. The City's contract with CalPERS provides for the two point seven percent (2.7%) at age fifty-seven (57) retirement formula.

ii. New Members retirement benefit will be based on the highest 36 consecutive months of compensation earnable.

iii. New Members of the City's police retirement plan will pay an employee contribution to PERS at the rate of fifty percent (50%) of the total "normal cost" of the plan as defined by CalPERS. This amount may change from year to year, as determined by CalPERS. This employee contribution will be paid through a payroll deduction.

E. <u>PARS Contribution</u>

i. City shall provide to all miscellaneous Unrepresented Confidential Employees, miscellaneous Unrepresented Mid-Management Employees and miscellaneous Unrepresented Executive Employees Public Agency Retirement System (PARS) supplemental retirement benefits to include the three percent (3%) at age sixty (60) supplemental retirement formula and the highest consecutive twelve-month period retirement formula.

ii. The employees' contribution to PARS shall be eight percent (8%) of the wages upon which the employee's retirement contributions are computed. The City shall pay three percent (3%) of the employee contribution for Unrepresented Executive and Mid-Management Employees, in addition to the actuarially calculated employer contribution. Unrepresented Executive and Mid-Management Employees shall contribute the remaining five percent (5%). The City shall pay two point five percent (2.5%) of the employee contribution for Unrepresented Confidential Employees, in addition to the actuarially calculated employer contribution. Unrepresented Confidential Employees shall contribute the remaining five point five percent (5.5%).

iii. City shall report to PARS as compensation earnable pursuant to California Government Code section 20636(c)(4) the City's payment of the required employee retirement contributions to PERS.

iv. Employees hired on or after January 1, 2013, who are "new members" as defined in PEPRA, including "classic" employees coming from another CalPERS jurisdiction, shall not be eligible to receive any PARS benefit.

Section XIII. <u>City Rights</u>

The City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its municipal services and workforce performing those services in all respects. The exclusive rights of City shall include, but not be limited to, the right to determine the organization of City government and the purpose and mission of its constituent agencies, to set standards of services to be offered to the public, and, through its City Manager and department directors to exercise control and discretion over its organization and operations, to establish and implement administrative regulations and employment rules and regulations consistent with law, to direct employees, to classify and reclassify positions, to take disciplinary action for just cause, to relieve employees from duty because of lack of work or for other legitimate reasons, to determine whether goods or services shall be made, purchased or contracted for, to determine the methods, means and numbers and kinds of personnel by which City's services are provided, including the right to schedule and assign work and overtime, and to otherwise act in the interest of efficient service to the community.

Section XIV. <u>Severability</u>

It is understood and agreed that this Resolution is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the City Municipal Code. If any part or provision of this Resolution is in conflict or inconsistent with such applicable provisions of those Federal, State, or City enactments or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of this Resolution shall not be affected. If any part or provision of this Resolution is suspended or superseded part or provision with the understanding that the total compensation to employees under this Resolution shall not be reduced or increased as a result of this Section.

Section XV. Conflicting Resolutions

All resolutions, parts of resolutions, or City policies and procedures in conflict with this resolution, except as such resolutions or parts thereof approve a Memorandum of Understanding, are hereby repealed. This resolution hereby supersedes Resolution No. 14,883 adopted by the City Council on December 15, 2015.

Section XVI. Effective Date

This resolution shall become effective following adoption by the City Council in accordance with the Brown Act. This resolution shall remain in full force and effect until September 30, 2019, unless amended, repealed or otherwise modified by the City Council in accordance with the Brown Act.

Section XVII. Classifications Solely Contained in this Resolution

Positions in the City service designated as confidential are set forth in the following list and are provided the benefits contained in this resolution. Employees whose classifications are not listed in this Resolution but whose position is designated as confidential will receive the benefits listed which are commensurate with the classification group most like one of the three categories of positions contained in this resolution. Example: A management analyst designated as confidential would receive the benefits under this resolution as a confidential/unrepresented mid-manager.

Classifications which are assigned solely to the Confidential/Unrepresented Group

Confidential Non-Management
Administrative Assistant (C)
Administrative Services Assistant (C)
Administrative Legal Assistant
Human Resource Technician
Paralegal
Sr. Human Resources Coordinator

Unrepresented Executive Employees
Assistant City Manager
Chief Financial Officer
City Attorney
City Clerk
City Manager
City Treasurer
Cultural & Community Services Director
Development Services Director
Economic Development Director
Fire Chief
Housing Director
Human Resources Director
Information Technology Director
Police Chief
Public Works Director

Confidential, Unrepresented Mid Management
Assistant City Attorney
Assistant Director of Human Resources
Deputy City Attorney I/II/III
Executive Assistant I/II
Human Resources Analyst I/II
Human Resources Manager
Law Office Manager
Principal Human Resources Analyst
Public Relations & Community Affairs Manager
Risk Manager
Sr. Human Resources Analyst
Assistant Chief Financial Officer

PASSED AND ADOPTED this 27th day of June, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

____
Tim Flynn, Mayor

ATTEST:

____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

	CITY COUNCIL AGENDA REPORT	TYPE OF ITEM: Report AGENDA ITEM NO.: 1

DATE: June 27, 2017

TO: City Council

FROM: Greg Nyhoff
City Manager

Greg Nyhoff

SUBJECT: Creation of Internal Audit Program—Approval of Contract with Price Paige and Company (10/20/15)

CONTACT: Greg Nyhoff, City Manager
Greg.Nyhoff@oxnard.org, 385-7430

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute an Agreement with Price Paige and Company (A-7986) to provide the first comprehensive Internal Audit program, for which $200,000 has been budgeted for FY17-18.

BACKGROUND

A key recommendation coming from the City's comprehensive organizational assessment in 2015 included the creation of a robust Internal Audit program. Given the findings from the organizational assessment, validated and expanded upon by other finance auditors and consultants who have been brought in to troubleshoot different areas, it was felt the City could benefit from an Internal Audit program.

An Internal Audit program is common in larger cities and counties across the country. They perform internal control reviews (ensuring assets are protected and the City is operating as intended by Council and management), compliance audits (vis-à-vis federal/state/local laws and policies) and performance audits. A contracted Internal Auditor was recommended (in-lieu of City staff) because it added another layer of independence; provided capacity to quickly scale up and down based on workload; and, an experienced firm would provide a plethora of expertise that can be drawn from to address the myriad of issues that are found in a large general purpose local government, such as Oxnard. The need for quickly scaling up is evident upon reviewing the

long list of activities expected in the first year of this program. The City Council approved this recommendation and directed staff to issue a Request for Proposal (RFP).
An RFP was distributed in the spring of 2016; however, that process was aborted to expand the list of firms invited to submit proposals to 34 firms, including outreach to local ones. A new RFP process began late fall 2016 and the City received 5 proposals. The Fiscal Policy Task Force reviewed all submittals and reduced the field to three firms.

The City Council interviewed these three firms and ultimately picked the top one, Price Paige and Company using the selection criteria outlined in the original RFP document. The scoring allowed for a total of 500 points (100 for each Council member). The results were as follows:

Lopez and Company	370 points
Moss Adams	421 points
Price Paige & Company	461 points

We have attached the proposed contract with Price Paige and Company who will provide full service Internal Auditor services, including the administration of the new Whistle Blower program, on behalf of the City Council.

Contract Overview

The most important section of the contract is the Scope of Services (Exhibit A). This Exhibit specifically lays out what Price Paige is expected to do for the City. We have broken out our needs into the following subsections:

Subsection I. Basic Services

A. This essentially "opens the doors" and creates the office of the Internal Auditor. They respond to inquiries, coordinate with the Fiscal Policy Task Force, provide regular reports, propose and update the Annual Work Plan, provide status reports, assist City staff, etc.
B. These are the duties related to implementing the City's new Whistleblower Hotline Policy. The firm will be responsible for creating a toll-free hotline and email or mail repository to solicit allegations of misconduct. They will perform the duties outlined in the new Policy e.g. reaching out to the complainant, determining its merit and relevance to City business; maintain a database to track complaints; conduct the relevant due diligence leading to appropriate findings and resolution of the complaint. They provide periodic reports to the Council.

Please note: At your direction, we asked Price Paige to engage a third party who had the business model and the necessary systems to act as the initial telephone or email contact and repository to collect any Whistleblower complaints. There are various firms that provide this service along with management reporting to aid in managing this program. This arrangement adds an additional layer of independence and is very inexpensive.

Subsection II. City Council Initial Audit Work Plan

A. The Council will review, adopt and budget for a list of Internal Audit activities each year. We call this the Annual Audit Work Plan. Two key inputs in determining this annual work plan is an identification of risk and a review of the internal controls (processes, systems and procedures that ensure compliance with federal/state/local/management laws and directives) of the City. Thus, we wish to immediately complete a Risk Assessment and Internal Controls Review in the first year. The results of these reviews will provide guidance for future Annual Audit Work Plans.

The Council also felt it already had a list of specific audits they wanted to complete the first year, including:

B. A performance audit of the City Corp program

C. A performance audit of the Performing Arts and Convention Center (PACC)

D. An audit of City use and management of overtime

E. A performance audit of the Golf operation

Subsection III. Annual Audit Work Plan

A. On an annual basis, the Internal Auditor will propose an Annual Audit Work Plan to the Fiscal Policy Task Force, that considers findings from the Risk Assessment and Internal Controls Review, new information developed from the previous year and input from the City Manager. The Task Force will then forward a recommendation to the full Council for review and approval. The Internal Auditor will schedule the process for proposing and approving Annual Audit Work Plans in coordination with the City's annual budget process.

Exhibit B - Schedule of Services

This schedule lays out the expectation that the Internal Audit Basic Services will commence 3 weeks after contract execution. The Initial Audit Work Plan will be completed within 1 year. It also clarifies that the process for proposing and approving future Annual Work plans should be coordinated with the annual budget process.

Exhibit C - Compensation Rates

This should be self-explanatory. The Basic Services category reflects a fixed amount for 3 years, but with one caveat. There is no way to anticipate and budget for unknown Whistle Blower activity that could involve extensive audit work due to potential fraud activity. The fixed fee provides for enough work to establish "predication", a fraud examiner's term that says the internal auditor has examined enough information to reasonably think fraud did occur, is occurring and/or will occur. Once meeting the "predication" test, the firm will propose a cost estimate using the billing rates listed at the bottom of Exhibit C. These rates are fixed for the next 3 years.

The costs to complete each of the audits in the City Council's Initial Audit Work Plan are listed as well, totaling $127,380. Subject to the caveat mentioned above on the unknown Whistleblower activity, we expect the first-year costs to be $156,100. Given the aggressive first year activity, this is a very competitive price.

Subsequent Annual Audit Work Plans will be developed using the hourly rates listed at the bottom of Exhibit C, and again these rates are fixed for 3 years.

Other Key Terms

Section 5—The contract is clear that the Internal Auditor reports to the City Council through the Fiscal Policy Task Force (see also Section 11). However, the day-to-day coordination of activities (e.g. allocating office space, technology assess, paying bills, communicating to the organization, etc.) will be done by the City Manager's Office.

Section 9—The person or principal in charge of this contract and program is Fausto Hinojosa, Vice President of the Price Page and Company. Thus, he will be your designated Internal Auditor.

Section 12--The contract is for a 3-year term. However, the Council can extend the contract for 2 additional 1 year extensions. In no event can the contract term exceed 5 years. If the City is satisfied with this model, you would start a new RFP process in the middle of the last year of the contract.

Section 13—Either party can terminate the contract with written notice during the term of this contract.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to strengthen and stabilize the organizational foundation of the City in the areas of Finance, Information Technology, and Human Resources, and to improve workforce quality while increasing transparency to the public. This item supports the following goals and objectives:

Goal 1. To help foster a healthy and accountable corporate foundation by strengthening the support functions of the organization, which include Finance, Information Technology and Human Resources.

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.

Objective 1b. Establish an Internal Audit Program to complete performance audits of identified programs to ensure compliance with state and federal law and that Council policy is adhered to.

Objective 1c. Develop written procedures to address Internal Control recommendations from Auditor.

Goal 2. Increase transparency with Council, community and staff related to the City's budget and financial management processes.

FINANCIAL IMPACT

As mentioned above, the first-year cost of this contract is expected to be $156,100. However, this may increase if due to a Whistleblower complaint or other exigent circumstance requires an unexpected audit to occur; however, these additional costs will not occur without following the City's purchasing policies for contract amendments. The funding for this contract is included in the Non-Departmental General Fund Professional Contract of FY 17-18 Budget.

The costs for Basic Services and the billable hourly rate schedule will be fixed for 3 years. Future year's costs will be determined by future Annual Audit Work Plans that will be proposed by the Internal Auditor but controlled by the City Council.

ATTACHMENTS:

Attachment A: Agreement with Price Paige and Company

Agreement No. A-7986

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into in the County of Ventura, State of California, this 27th day of June, 2017, by and between the City of Oxnard, a municipal corporation (**"City"**), and Price Paige and Company (**"Consultant"**). City and Consultant are sometimes individually referred to as **"Party"** and collectively as **"Parties."**

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

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

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

1. Scope of Services

Consultant shall furnish City with professional consulting services as more particularly set forth in **Exhibit A** attached hereto and incorporated by this reference in full herein (the **"Services"**).

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 assisted by and coordinated with a City Manager designee (**"Coordinator"**), subject to the direction of the City Council through their Fiscal Policy Task Force (**"Chair of FPTF"**).

6. Place of Work

City shall provide office space for Consultant to adequately perform the Services provided for in this Agreement. It is understood that Consultant can perform the Services at any place or location as the Consultant shall determine; however, Consultant will work with the FPTF to ensure an adequate physical presence is achieved at the City given the purpose of the Internal Audit program and the reporting requirements outlined in the Services.

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 during the term of this Agreement [pursuant to the schedule provided in **Exhibit B** attached hereto and incorporated by this reference in full herein]. City agrees to amend the performance termination date whenever Consultant is delayed by action or inaction of City and Consultant promptly notifies Chair of FPTF of such delays.

9. Principal in Charge as Internal Auditor

Consultant hereby designates Fausto Hinojosa as its principal-in-charge, the City's Internal Auditor and the person responsible for necessary coordination with the Coordinator and Chair of the FPTF.

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. Chair of FPTF agrees to provide direction to Consultant as requested regarding project requirements.

12. Term of Agreement

This Agreement shall begin upon execution of this contract, and expire three calendar years later, unless City and Consultant agree to extend the term with two (2) one-year options. In no event will contract exceed five (5) calendar years from its original execution.

13. Termination

a. This Agreement may be terminated by City without cause if Chair of FPTF notifies Consultant, in writing, of City'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 without cause if Consultant notifies Chair of FPTF, 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 amounts and rates provided in **Exhibit C** (attached hereto and incorporated by this reference in full herein).

b. The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services.

c. 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.

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

e. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

15. Method of Payment

a. City agrees to pay Consultant monthly upon satisfactory completion of the Services and upon submission by Consultant of an invoice delineating the Services performed, in a form satisfactory to Manager. The invoice shall identify the Services by project as specified by Coordinator.

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 Coordinator 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 Coordinator.

b. At City's request, City shall be entitled to immediate possession of, and Consultant shall furnish to Coordinator within ten (10) calendar days, all 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 Coordinator.

21. Indemnity

a. To the fullest extent permitted by law, 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 arising out of or resulting from or in connection with Consultant's negligent or willful misconduct in its 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, losses, 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. 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.

b. The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. To the extent of Consultant's negligent or willful misconduct in its performance of this Agreement or Consultant's failure to comply with any of its obligations contained in the Agreement, 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, unless Indemnified Party's sole 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 in part by an Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs to the extent of Indemnified Party's negligent or willful misconduct in its performance of this Agreement or of Indemnified Party's failure to comply with any of its obligations contained in the Agreement.

c. 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 provided for in this Agreement, or except as Coordinator 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 Coordinator and Chair of FPTF, 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 Coordinator, provide copies to Coordinator 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 Price Paige and Company, 677 Scott Avenue, Clovis, CA 93612, Attention: Fausto Hinojosa.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, City Manager's Office, 300 West Third Street, 4th Floor Oxnard, California 93030, Attention: Greg Nyhoff, City Manager.

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

Tim Flynn, Mayor Date

ATTEST:

Michelle Ascencion, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney Date 6/22/17

APPROVED AS TO CONTENT:

Greg Nyhoff, City Manager Date 6/21/17

APPROVED AS TO AMOUNT:

Greg Nyhoff, City Manager Date 6/21/17

APPROVED AS TO INSURANCE:

Mike More, Risk Manager Date

VENDOR/CONTRACTOR/CONSULTANT

Fausto Hinojosa, Vice President Date 6/19/17

Mitch Buckley, Secretary Date 6/21/17

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.

EXHIBIT A

SCOPE OF SERVICES

I. SCOPE OF SERVICES

The successful firm will be required to provide audit services that include, but are not necessarily limited to the following:

I. **Internal Auditor Basic Services**: (To commence immediately and accomplished concurrently with the citywide Risk Assessment and any other specific audit activities as outlined below).

A. Provide a senior representative to be the named as the City Internal Auditor under the terms of contract, who will:

1. Respond to phone calls, citizen inquiries and emails to the City Internal Auditor and when appropriate refer to City staff.

2. Coordinate with City staff to schedule Fiscal Policy Task Force Council Committee Meetings.

3. Provide regular reports on the status of the risk assessment and other audit activities.

4. Propose and update the Audit Work Plan at the beginning of each calendar year for the subsequent fiscal year beginning in July; prepare Audit Work Plan based on regular citywide risk assessments and include proposed scope and cost for each recommended audit; present annual Audit Work Plan to City Manager for preliminary review of scope, followed by review by the Fiscal Policy Task Force Council Committee and final presentation to the City Council for approval.

5. Provide regular status reports, either written or oral, to the Fiscal Policy Task Force; at a minimum provide Quarterly Reports on activities and findings related to audits; may be required to be present at City Council or other meetings upon request.

6. Conduct follow-up and verification of audit findings pursuant to closing findings as complete.

7. Provide city staff with tools to track open audit findings and facilitate resolution of findings when complete.

8. Provide follow-up work for findings associated with annual external financial audits.

B. Administer Oxnard's new Whistleblower Hotline Policy

1. Manage the City's new Whistleblower Hotline Policy (see Attachment 1)

2. Create and operate toll free phone hotline, email or mail repository to solicit allegations of misconduct. Consultant will use assistance of third-party to operate phone hotline.

3. Perform the duties as outline in the attached Whistleblower Hotline Policy, including but not limited to: reaching out to the complainant to ascertain the nature of the complaint, its merit and relevance to City of Oxnard business; maintaining a database to track complaints and activities leading to resolution of it; prioritizing the complaint consistent with Policy; and, conducting the relevant due diligence leading to appropriate findings and resolution of the complaint.

4. Provide periodic reports to the City Council, at least every six months, including a list of the allegations received through the Hotline, including the priority assigned and the status or disposition of each reported allegation.

II. <u>City Council Initial Audit Work Plan:</u>

A. Conduct a citywide Risk Assessment and Internal Control audit that utilizes the March 17, 2015 report to Council called "Organizational Assessment and Audit of Corporate Support, Accountability and Value Systems—Management Partners and Renne Sloan Holtzman and Sakai, LLP" and the July 19, 2016 Presentation on the Single Audit Report, Internal Control and Compliance Report and Other Communication for FY 2014-15 by Eden Casareno and Associates; as a starting point for completing this section of the scope of work. Any proposal should not be redundant to this work; rather it should be complementary to what the City already knows.

1. Complete a Risk Assessment of the City's financial operations:

    a) Review Organizational Assessment mentioned above.

    b) Review administrative and financial policies, procedures, and practices.

    c) Examine methods, procedures, and practices used to provide reasonable assurance that City assets are safeguarded and that staff is complying with approved policies, procedures and practices.

    d) Identify the strengths, weaknesses, challenges and key areas of risk.

    e) Make recommendations for improvement, identify future audit priorities and prepare a preliminary Audit Work Plan in conjunction with the results from reviewing the internal controls mentioned below.

2. Examine the internal controls framework of the City to include:

    a) The City's overall control environment.

        i) Management's philosophy and operating style regarding integrity and ethical values.

        ii) Staff's philosophy and operating style regarding integrity and ethical values.

        iii) The assignment of authority and responsibility for ensuring protection of City assets and policy compliance.

        iv) Existing policies and procedures.

    b) The City's ongoing identification and assessment of risk.

        i) The City's approach to risk identification and risk mitigation (proactive versus reactive).

        ii) The alignment of the City's objectives with the assessment of risk.

    c) The City's control activities (for protection of assets and compliance with policies).

        i) Separation of duties.

        ii) Authorization and approval.

        iii) Custodial and security arrangements.

iv) Review and reconciliation.

v) Variance analysis.

vi) Adequate documentation.

vii) Physical inventories.

d) Senior management, mid-management and supervisory responsiveness to identified problems/weaknesses.

i) The timeliness with which internal control deficiencies are identified and communicated.

ii) Appropriateness of management's selection of risk response – avoidance, acceptance, reduction, or sharing of an identified risk.

e) Perform sampling procedures to test and evaluate one or more areas of the City's internal controls, considering risk, control weaknesses, size, and complexity of operations.

f) Make use of and build upon the internal control evaluation work done by the City's independent CPA firm during that firm's annual financial statement audit.

g) Review any recommendations regarding the internal controls with the appropriate executives, including the Chief Financial Officer and the City Manager.

h) Prepare reports which analyze significant risk assessment findings, recommend changes for strengthening internal controls and reducing identified risks.

i) Report of the findings that outlines the specific deficiencies in the internal control framework and the possible impact posed (level of risk) due to the identified weaknesses.

ii) Report with recommendations that will address the weaknesses identified in the City's internal control framework.

iii) Present draft results of this audit project along with the findings from the Risk Assessment and fold into the preliminary Audit Work Plan to the City Manager with the final report to the Fiscal Policy Task Force Council Committee, including estimated costs by audit project and a recommended future audit approach. This will require eventual ratification by the full City Council.

B. Conduct comprehensive performance audit of Oxnard's City Corp program

1. This program represents a hybrid structure where City Corp management (City employees) seeks funding independently of the City and its proceeds are accounted for in a City Trust Fund along with a City General Fund subsidy and other City financial support via contracts with City departments. Payroll for City Corp employees is processed totally independent of the City's systems. City Corp employees are hired outside the City's Human Resources processes. As a result, since City funds support and City employees manage this program, this audit will examine all City Corp practices vis-à-vis City policies and procedures, state or federal guidelines, best management practices and proper internal controls for managing risk.

2. Given the stated program goals, this audit will examine program outcomes and the efficiency and cost-effectiveness of the program.

3. Given the City's difficult General Fund financial position, the audit will provide recommendations for potential cost savings to the General Fund.

4. All audit findings will be accompanied with recommendations for improvement.

5. Preliminary findings and recommendations will be shared with program management, the Coordinator and City Manager.

6. The final report will be reported out to the Fiscal Policy Task Force Council Committee and ultimately the full City Council.

C. Conduct comprehensive performance audit of the Oxnard's Performing Arts and Convention Center (PACC) Program.

1. Again, this program is a hybrid one where City employees provide overall management and supervision and the City provides a sizeable General Fund contribution; however, there is a non-profit organization that provides funding and some direction to the PACC Manager. As a result, due to the intertwining of non-profit and City staffing and funding; this audit will examine program and financial activities of the entire PACC program i.e. for both the non-profit and City. It will use as benchmarks: City policies and

procedures, state or federal guidelines, best management practices, general fund subsidies of similar programs/facilities and proper internal controls for managing risk.

2. Given the overall program goals, this audit will examine program outcomes and the efficiency and cost-effectiveness of the program.

3. Given the City's difficult General Fund financial position the audit will provide recommendations for potential cost savings to the General Fund.

4. The audit should provide recommendations on budgeting and accounting practices for improvement of financial management and accountability.

5. All audit findings will be accompanied with recommendations for improvement.

6. Preliminary findings and recommendations will be shared with program management, the Coordinator and the City Manager.

7. The final report will be reported out to the Fiscal Policy Task Force Council Committee and ultimately to the full City Council.

D. Conduct a comprehensive audit of the City's use and management of overtime in the various programs within departments. Audit will use as benchmarks: City policies and procedures, best management practices, staffing levels, and proper internal controls for managing the cost of overtime. The auditor will evaluate outcomes and efficiencies of the program and recommends ways to improve in these areas.

E. Conduct a comprehensive performance audit of the City's Golf operation.

1. The City owns one golf course that has been operated under contract by the same vendor since 1993. The Golf generated revenues do not cover the full direct and indirect costs of operating the golf course facility at River Ridge Golf Club and requires a General Fund subsidy. The FY 16-17 budget is $5.3 million and the budgeted General Fund subsidy is $775,858. Given the City's difficult budgetary position, it is interested in options to save money and reduce the subsidy by the City.

2. Conduct a thorough review of the Golf operations, its contract with the vendor that operates the program and comparing these efforts to generally recognized best management practices. This would be

done with the goal of improving the cost effectiveness of the program and reducing the subsidy of the program.

3. Conduct a thorough review of the City's contract oversight practices and recommend options to improve control and accountability of the Golf operator.

III. **Annual Audit Work Plan: Professional Standards, Implementation and Maintenance**:

A. Provide resources to conduct specific internal audits effectively and efficiently according to relevant professional standards such as: Generally Accepted Government Auditing Standards (GAGAS) or other professional standards as promulgated by the American Institute of CPA's (AICPA) and/or Institute of Internal Auditors (IIA). The annual Audit Work Plan will be proposed by the internal auditor but selected by the Fiscal Policy Task Force Council Committee and ultimately ratified by the City Council. The related work activities are as follows:

1. Provide an opportunity for feedback and response by departments under audit along with the City Manager's Office.

2. Provide regular reports on the status of ongoing internal audits to the City Manager and Fiscal Policy and Audit Council Committee.

3. Provide written reports with results of audits and publish audits to the City Internal Auditor's Web page; based on the audit work performed, written reports and oral PowerPoint presentations must be provided. The presentations shall address the audit findings and conclusions, audit recommendations that will improve the efficiency and effectiveness of the organizations or programs audited, and corrections needed to address any operational deficiencies or non-compliance issues found.

4. Work with management to implement recommendations.

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 14,906

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ADOPTING A WHISTLEBLOWER HOTLINE POLICY

WHEREAS, California Government Code Section 53087.6 authorizes the City Council to approve establishing a whistleblower hotline to provide a confidential way for the public to report fraud, waste and abuse; and

WHEREAS, the City Council intends to award a contract for Internal Auditor services, which services shall include the review and investigation of reports of fraud, waste and abuse, as well as a contract for the operation of a Whistleblower Hotline for the intake of such reports; and

WHEREAS, the City Council wishes to establish a policy regarding the operation of the Whistleblower Hotline and the review and processing of reports submitted through the Hotline and through other channels.

NOW, THEREFORE, the City Council of the City of Oxnard resolves that the Whistleblower Hotline Policy attached hereto as Exhibit "A" is hereby adopted.

PASSED AND ADOPTED THIS 5th day of April, 2016, by the following vote:

AYES: Councilmembers Flynn, Ramirez, MacDonald, Padilla and Perello.

NOES: NONE.

ABSENT: NONE.

ABSTAIN: NONE.

Tim Flynn

Tim Flynn, Mayor

ATTEST:

Daniel Martinez

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, Interim City Attorney

Attachment 1--EXHIBIT "A"

City of Oxnard Whistleblower Hotline Policy

WHISTLEBLOWER PROTECTION

The City will take all appropriate steps to thoroughly evaluate any allegations of improper governmental action that are brought to its attention. No City official or employee shall take retaliatory action against any employee or member of the public who, based on a good faith belief, has made a complaint or allegation concerning improper governmental action. Any individual who files a complaint may elect to have their identity kept confidential to the extent permitted by law unless the employee waives confidentiality in writing. The City shall establish a Whistleblower Hotline in order to receive and investigate allegations of possible City Fraud, Waste, and Abuse. This policy reflects the City's ongoing commitment to support open, ethical, accountable, and transparent local government.

Purpose

It is the purpose of this policy to 1) encourage employees and members of the public to report information concerning any allegedly improper governmental action or subsequent retaliation by the City's officers or employees by providing them protection against retaliation, and 2) reinforce the expected values and behaviors of City officials and employees because of their role as guardians of the public trust and resources.

Procedures

The following procedures aim to ensure accountability by creating a consistent and logical method for receiving and tracking allegations received through the Whistleblower Hotline. These procedures describe how the Internal Auditor and others involved in the reporting process will handle these allegations. Additionally, the procedures lay out a risk-based approach for using the Internal Auditor's limited resources to investigate the allegations that could place the City of Oxnard at the greatest risk.

Receiving Allegations

City staff or members of the public may submit allegations by either calling the Whistleblower Hotline's toll-free number, 1-***-***-****, or by completing the online form located at https://www.**********. In addition, individuals may also submit allegations directly to the Internal Auditor. Any individual who files a complaint may elect to have their identity kept confidential. The individual's identity will be kept confidential to the extent permitted by law unless the individual waives confidentiality in writing. Information can be submitted in person, over the phone, by voicemail, by e-mail, or by mail. The following provides the general procedure for receiving allegations.

In-Person or Phoned-In Allegations

Persons responsible for intake of allegations should adhere to the following procedures:

1. Ask about the subject of the allegation to ensure that the complainant is reporting to the correct entity. Determine if the allegation is about a City Department, Employee, Vendor, or Contractor; or if the complaint would fall under another jurisdiction.
   - If the allegation is not related to City government (for example, it is about a State or County Employee), refer the complainant to other relevant reporting options. See Reporting Options

table. Enter the information in the Intake Log with a note about which entity the complainant was referred to.

2. If the allegation is about a City Department, Employee, Vendor, or Contractor, start a conversation with the complainant about the allegation.
3. After obtaining a basic understanding of the allegation, if the complainant had not already provided his or her name, ask for their name and contact information. Discuss the complainant's preference about remaining anonymous. Note this information on the Intake Form. Persons receiving allegations may enter notes on paper or directly into the electronic form.
4. After gathering this information, continue the conversation about the allegation. Ask the questions from the Intake Form, if appropriate. However, use your discretion to ask additional questions. The form's questions are meant to be used as a tool to aid the conversation and to solicit possible additional evidence.
5. After completing the conversation, enter/review Intake Form notes and save the file on the Investigations database.
6. Log the allegation information on the Intake Log.
7. Discuss the allegation with appropriate Internal Auditor Staff. Depending on the severity of the allegations, this discussion might need to occur immediately. See Allegations section below. For less serious allegations, discussions of many allegations may take place during periodic whistleblower hotline meetings.

Voicemail Allegations

1. Listen to the voicemail.
2. Log the allegation information on the Intake Log.
3. Complete the Intake Form.
4. If necessary and contact information is available, seek additional information by using any contact information that the complainant provided.
5. If contact is made, update the Intake Form to reflect additional information.
6. Discuss the allegation with appropriate Internal Auditor Staff. Depending on the severity of the allegations, this discussion might need to occur immediately. See Allegations section below. For less serious allegations, discussions of many allegations may take place during periodic whistleblower hotline meetings.

E-mailed or Mailed-In Allegations

1. Read the e-mail or letter.
2. Log the allegation information on the Intake Log.
3. Complete the Intake Form.
4. If necessary and contact information is available, seek additional information by using any contact information that the complainant provided.
5. If contact is made, update the Intake Form to reflect additional information.
6. Discuss the allegation with appropriate Internal Auditor Staff. Depending on the severity of the allegations, this discussion might need to occur immediately. See Allegations section below. For less serious allegations, discussions of many allegations may take place during periodic whistleblower hotline meetings.

Screening for Merit and Relevance

The Whistleblower Hotline is open to the public at large. As such, it welcomes an expansive range of complaints. Therefore, it is important to consider, during the interview process, how the allegation may relate to waste, fraud, or abuse by the City or its Employees. To do this, intake staff should think broadly about how the provided statements could tie into a related matter. Allegations, from a cursory review, could appear to lack in merit or relevance due to a myriad of reasons. However, upon a thorough and professional evaluation, they may point to an issue that puts the City at risk, which merits further investigation. However, cases that lack merit and relevance, as determined by insubstantial statements, should be documented and closed as 'Dismissed: Does Not Appear to Have Merit' in the Whistleblower Intake Log in order to preserve Internal Auditor resources. Taking these necessary steps protects the integrity of the Whistleblower Hotline and efficiently preserves public resources for matters that have merit and relevance.

Allegations

The Intake Log and Intake Form requires Internal Auditor staff conducting the intake to rate the priority of the complaint using "low," "medium," and "high." This method is to help the Internal Auditor prioritize its investigations by targeting overall risk to the City of Oxnard. Any allegations that are rated "medium" or "high" should be presented to the City's Internal Auditor or relevant Internal Auditor staff as soon as practicable. Those rated "low" can be discussed during periodic hotline discussions. The following provides guidance about rating allegations:

High Priority

Reasons why allegations may be considered high priority include a safety concern, losses to the City of Oxnard for more or equal to $75,000, criminal activity resulting in a loss of at least $400, high-level involvement, collusion of multiple wrongdoers, a major department-wide issue, or need for immediate action to stop a potential major issue. High-priority items should be discussed immediately. In addition, addressing these items could take priority over other investigations and audits – at the Internal Auditor's discretion.

Medium Priority

Allegations in this category could include a loss to the City of Oxnard for more or equal to $25,000, abuse of authority, medium to low-level employee involvement, minor department-wide issues, or patterns of small problems that could become serious in the aggregate.

Low Priority

Allegations in this category could include a loss to the City of less than $25,000, isolated instances of time abuse, wasteful practices that would lead to limited gains in efficiencies if corrected, or allegations that lack credibility and evidence. The Internal Auditor would aim to investigate items in this list, but may not do so because of limited resources or if the complaint is insubstantial due to a lack of sufficient information to warrant an investigation. However, if the same or similar issues were reported multiple times, low priority items may become more of a priority.

Allegations Covered By the Internal Auditor

The hotline is designed to promote good government by providing City employees and members of the public with a way to report allegations of fraud, waste, and abuse.

In 2009, State Law went into effect that enabled local government auditors to establish whistleblower hotlines and to provide whistleblower protections. Local auditors are authorized under California

Government Code Section 53087.6 to create whistleblower hotlines with the approval of their respective legislative bodies.

The California Government Code defines "fraud, waste, or abuse" in this context as an activity by a local government or employee "that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct."

The following further defines fraud, waste, and abuse:

Fraud -- The Association of Certified Fraud Examiners defines occupational fraud as "the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets."

Some examples of possible fraud include theft of City funds or property, accepting or soliciting a bribe or kickback, falsifying payroll information, falsifying financial records to hide theft, submitting a false voucher, or using city property for non-City business.

Waste -- Waste can be intentional or unintentional and can involve unnecessary or extravagant City expenditures or misuse of City resources.

Abuse -- This is the use of an employee's position in the City to obtain personal gain for that employee or for someone else like a family member or friend.

The above definitions are meant to provide guidance, and are not meant to cover all types of allegations that will be investigated.

Additional Definitions

Employee means anyone employed by the City, whether in a permanent or temporary position, including full-time, part-time and intermittent workers. It also includes volunteers and members of appointed boards or commissions, whether or not paid.

Good faith belief means an honest and reasonable belief based on personal knowledge.

Improper governmental action means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

Retaliatory action means any adverse change in an employee's employment status or the terms and conditions of employment resulting from an employee's complaint or allegation of an improper governmental action based on good faith belief.

Allegations Covered by Other City Offices

Some allegations are more appropriately investigated by other City Departments. The intent of establishing a whistleblower hotline is not to replace or limit other reporting options. Specifically, many Human Resources related issues should still be reported to the appropriate Human Resources staff. For example, labor grievances, discrimination allegations, and workers' compensation claims should be reported under the City's current procedures. Also, some callers may want to report legal issues to the City Attorney's Office, or code enforcement issues to the Development Services Department. As appropriate, the Internal Auditor will refer reporters to other City departments. However, it may also be appropriate for Internal Auditor staff to gather initial information in these areas to better understand the issues involved.

Internal Referrals Reporting Options:

Human Resources Department for workers' compensation information, union grievance procedures, and environmental health and safety programs like OSHA and DOT compliance:
805-385-7590
http://hr.cityofoxnard.org/11

Financial Resources - Risk Management for liability claims:
805-385-7475
http://finance.cityofoxnard.org/8/

City Attorney:
805-385-7483
http://cityattorney.cityofoxnard.org/1

Code Compliance Division for neighborhood code, housing and dangerous buildings, business compliance, landscape requirements, rental house standards, and anti-graffiti:
805-385-7940
http://developmentservices.cityofoxnard.org/Uploads/code/

Police for non-emergencies:
805-385-7600
https://www.oxnardpd.org/

Reporting Options for Allegations Covered by Non-City Agencies

Jurisdiction	Organization	Reporting	Methods
County of Ventura	County Auditor-Controller	Audit Fraud Hotline	805-644-6019 Audit Fraud Hotline/ County of Ventura/ 800 South Victoria/ Ventura, CA 93009-1540
State of California	Bureau of State Audits	Whistleblower Hotline	800-952-5665 Investigations/ Bureau of State Audits/ 555 Capitol Mall, Suite 300/ Oxnard, CA 95814 http://www.bsa.ca.gov/hotline/filecomp
Consumer Complaints Against a Business	California Office of the Attorney General	Comment/ Complaint Form	https://oag.ca.gov/contact/consumer-complaint-against-business-or-company
Consumer Complaints Against a Business	Better Business Bureau	Complaints	https://www.bbb.org/consumer-complaints/file-a-complaint/get-started
California Attorneys	State Bar of California	Complaints	800-843-9053 http://www.calbar.ca.gov/Attorneys/LawyerRegulation/FilingaComplaint.aspx
California Judges	Commission on Judicial Performance	Complaints	415-557-1200 http://cjp.ca.gov/file_a_complaint.htm

Special Circumstances

1. The Internal Auditor may receive allegations about elected officials. As the Internal Auditor does not generally have the authority to audit the City Council without their request to be audited, allegations involving these officials shall be discussed with the Internal Auditor immediately. The Internal Auditor and other City officials, if necessary, will discuss how to evaluate these types of allegations.
2. Additionally, allegations may be received about members of the Internal Auditor's staff. If such allegations occur, those receiving the allegations should report them to the Internal Auditor immediately. The Internal Auditor and any other Internal Auditor staff who become aware of the complaint will evaluate the allegation, possibly with the advice of other City staff and officials, to determine if an investigation shall be conducted by the City or by an outside entity. The Internal Auditor's staff is expected to keep the allegation confidential and not inform the individual who is the subject of the allegation. If the complaint is about the designated Internal Auditor, the individual receiving the allegation should discuss it with another staff member and possibly seek guidance from City staff or officials to determine how to proceed.

Periodic Reporting

The Internal Auditor shall, at least every six months, report to the City Council on the allegations received through the Whistleblower Hotline, including the priority assigned and the status or disposition of each reported allegation.

Contact Information for the Internal Auditor Appointed by the Oxnard City Council:

To be determined within three weeks of contract approval by the City Council.

EXHIBIT B

SCHEDULE OF SERVICES

I. Internal Audit Basic Services

A. Provide designated City Internal Auditor and commence basic services
B. Provide Whistleblower Hotline services

The above services will commence within three weeks from contract execution.

II. City Council Initial Audit Work Plan

A. Conduct Risk Assessment and Internal Control audit
B. Conduct comprehensive performance audit of Oxnard's City Corp Program
C. Conduct comprehensive performance audit of Oxnard's Performing Arts and Convention Center (PACC) Program
D. Conduct a comprehensive audit of the City's use and management of overtime
E. Conduct a comprehensive performance audit of the City's Golf operation

The above activities will be completed in the City's 2017-18 fiscal year.

III. Annual Audit Work Plan: Professional Standards, Implementation and Maintenance

This is ongoing activity; however, the proposed FY 18-19 Audit Work Plan, and any subsequent ones, should be completed in time for inclusion in the City's annual budget adoption process.

EXHIBIT C

COMPENSATION RATES

I. Internal Audit Basic Services

A.	Provide designated Internal Auditor/Basic Services	$15,600
B.	Provide Whistleblower Hotline Services	$10,120
	1. Third-party hotline system	$ 3,000
		$28,720

The above are fixed annual amounts for three years.

Note: While the above are "not to exceed amounts", extensive investigations into possible fraud activities within the Whistleblower program cannot, and are not, estimated in these amounts provided for that program. The above estimate includes the activities necessary to examine and establish predication. Pursuant to the Fraud Examiner's Manual, predication is the totality of circumstances that would lead a reasonable, professionally trained, and prudent individual to believe a fraud has occurred, is occurring and/or will occur. Predication is the basis upon which an extensive examination or fraud investigation is commenced. Extensive examinations or fraud investigations are impossible to predict, thus outside the scope of the amount provided above.

II. City Council Initial Audit Work Plan

A.	Conduct Risk Assessment and Internal Control Audit	
	1. Risk Assessment	$31,280
	2. Internal Control Audit	$28,880
B.	Performance audit of City Corp	$15,600
C.	Performance audit of PAAC	$21,600
D.	Audit of Overtime	$15,060
E.	Performance audit of Golf course	$14,960
		$127,380

Amounts in this Section II. Reflect "not to exceed" amounts

First Year Costs $156,100

Hourly Rates

Partner	$250/hr.
Manager	$160/hr.
Supervisor/Senior	$140/hr.
Staff	$120/hr.
Support Staff	$ 80/hr.

These billable rates are fixed amounts for three years.

EXHIBIT INS-A

INSURANCE REQUIREMENTS
INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

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

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

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

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant.

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 forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Reference No. ______
300 West Third Street, Suite 302
Oxnard, California 93030

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.

Rev. 6/17

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.

Oxnard Internal Audit Agreement.docx

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
CODE SUB-CODE	**COMPANIES AFFORDING INSURANCE COVERAGE**
INSURED	COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE
	COMPANY LETTER B

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

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

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

CERTIFICATE HOLDER City of Oxnard Attn: Risk Manager Reference No. ________ 300 W. Third Street, Suite 302 Oxnard CA 93030	**CANCELLATION** SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~ AUTHORIZED REPRESENTATIVE

Rev. 6/17 Oxnard Internal Audit Agreement.docx

SUBMIT IN DUPLICATE

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

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made
☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date ________
☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ ________		
☐ ________		

OTHER PROVISIONS

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

Name: _____
Address:

Telephone: (_____)___

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

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

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

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No.______
300 W. Third Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE
☐ Broker/Agent ☐ Underwriter ☐ ________________________

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

Signature ____
(original signature required)
Telephone: (____) __________ Date Signed: ________________

Rev. 6/17 Oxnard Internal Audit Agreement.docx

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name:
Address:

Telephone: ( )____

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

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

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

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No. _______
300 W. Third Street, Suite 302
Oxnard, CA 93030

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 ____________

PRICPAI-01 SJ...

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/20/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E02096
DiBuduo & DeFendis Insurance Brokers, LLC
P.O. Box 5479
Fresno, CA 93755-5479

CONTACT NAME:
PHONE (A/C, No, Ext): (559) 432-0222 FAX (A/C, No): (559) 431-7941
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Ohio Security Insurance Company	24082
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Price Paige & Company
677 Scott Ave.
Clovis, CA 93612

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		BZS56406019	03/08/2017	03/08/2018	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:						Hired & NOA	$ 1,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
REference No. A-7986
The City of Oxnard, its officers, agents, employees, and volunteers are named as additional insureds, insurance is primary & non-contributory as required by written contract as repects General Liability per attached form BP7996 0916.

CERTIFICATE HOLDER

City of Oxnard
Attn: Risk Manager - Reference No. A-7986
300 W. Third Street, Suite 302
Oxnard, CA 93030

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 06/21/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
PAYCHEX INSURANCE AGENCY, INC.
150 SAWGRASS DRIVE
ROCHESTER, NY 14620

CONTACT NAME: Paychex Insurance Agency Inc
PHONE (A/C, NO, EXT): 800-472-0072
FAX (A/C, No): 585-389-7426
E-MAIL ADDRESS: Certs@paychex.com

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	AmGUARD Insurance Company	42390
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
PRICE PAIGE & COMPANY ACCOUNTANCY CORPORATION
677 SCOTT AVE
CLOVIS, CA 93612

COVERAGES

CERTIFICATE NUMBER: **REVISION NUMBER:**

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.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PROJECT / LOC						EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS HIRED AUTOS / NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR EXCESS LIAB / CLAIMS-MADE DED / RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		PRWC847273	04/01/2017	04/01/2018	X WC STATUTORY LIMITS / OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000.00
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000.00
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Reference Number A-7986

CERTIFICATE HOLDER

City of Oxnard
Attn Risk Manager
300 West 3rd Street Suite Number 302
Oxnard, CA 93030

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2010/05)

CAMICO

CAMICO MUTUAL INSURANCE COMPANY
DECLARATIONS
ACCOUNTANTS PROFESSIONAL LIABILITY INSURANCE POLICY

Policy Number: CAL01159-31

Effective Date:	01/01/2017	at 12:01 A.M. Standard time at the address shown below
Expiration Date:	01/01/2018	at 12:01 A.M. Standard time at the address shown below
Retroactive Date:	11/16/1976	

Item 1 - Named Insured:	Price, Paige & Co. Accountancy Corporation	
Item 2 - Business Address:	677 Scott Ave. Clovis, CA 93612	
Item 3 - Limits of Liability:	$2,000,000	Per Claim
	$4,000,000	Policy Aggregate
Item 4 - Deductibles:	$5,000	Per Claim Deductible
	$15,000	Policy Aggregate Deductible
Item 5 - Total Premium:	$37,679	

Item 6 - The policy consists of this Declarations page, and the following policy forms and endorsements:

PL-1000-A	07/14	Accountants Professional Liability Insurance Policy
PL-2001-A (CA)	07/14	State Endorsement - California
PL-1007-A	07/14	Exclusion - Claims Following Insureds Suit for Fees
PL-1002-A	07/14	Additional Named Insured Endorsement
PL-1002-A	07/14	Additional Named Insured Endorsement
PL-1033-A	07/14	Insurance Agent/Broker Exclusion
PL-1049-A	07/2014	Privacy and Client Network Damage Endorsement
PL-1056-A	06/16	Multiple Claims and Related Acts, Errors and Omissions Amendment

PLEASE READ THESE DECLARATIONS, THE POLICY AND ENDORSEMENTS CAREFULLY.

CAMICO Mutual Insurance Company

Authorized Representative

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Public Hearing** **AGENDA ITEM NO.: 1**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

Greg Nyhoff

FROM: Ashley Golden
Development Services Director

Ashley Golden

SUBJECT: Updating the City of Oxnard's California Environmental Quality Act (CEQA) Threshold Guidelines. (10/5/5)

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

RECOMMENDATION:

That the City Council adopt a resolution approving the updated CEQA Threshold Guidelines (herein referred to as CEQA Guidelines).

BACKGROUND

To help clarify and standardize decision-making in the environmental review process within the City of Oxnard, the City has established its own CEQA Guidelines. The City adopted the current CEQA Guidelines on January 24, 1995. Subsequent amendments to the CEQA Guidelines were adopted by the City on March 12, 1996 and August 26, 1997.

The CEQA Guidelines are intended to provide clear direction regarding how to carry out the CEQA environmental review process and what constitutes a significant environmental impact for projects in Oxnard. The CEQA Guidelines borrow heavily from the current State CEQA Guidelines, but differ in some instances to reflect local conditions and issues, and provide additional clarity and specificity with respect to analytical methodologies and standards to be used.

Since initial adoption, there have been many substantive changes to CEQA and the State CEQA Guidelines. In addition, conditions in the City have changed dramatically and the City has adopted a range of new policies and programs, including the 2030 General Plan and Program Environmental Impact Report. The new CEQA Guidelines are intended to address these changes while providing clear direction to developers, consultants, City staff, decision-makers, and the public regarding the preparation of CEQA documents in the City.

The CEQA Guidelines are offered as guidance to staff, consultants, and the development community in preparing all environmental review documents (including [mitigated] negative declarations and EIRs). Additionally, the CEQA Guidelines are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects. They also form the basis of the City's Initial Study and Environmental Review Checklist. The Environmental Review Checklist covers 18 environmental topics.

The City's CEQA Guidelines are arranged by issue area, generally in the same order in which the issues appear in the CEQA Initial Study Checklist. The environmental issues addressed in CEQA Guidelines include the following: Aesthetics and Urban Design (I); Agricultural Resources (II); Air Quality (III); Biological Resources (IV); Climate Change and Greenhouse Gas Emissions (V); Cultural Resources and Tribal Cultural Resources (VI, VII); Geology and Soils (VIII); Hazards and Hazardous Materials (IX) ; Hydrology and Water Quality (X); Land Use and Planning (XI); Mineral Resources (XII); Noise (XIII); Population, Education, and Housing (XIV); Public Services and Recreation (XV, XVI); Transportation and Circulation (XVII); and Utilities and Energy (XVIII, XIX).

As noted above, the CEQA Guidelines represent a comprehensive update of the City's current guidelines. Some of the most important changes are:

- Consideration of the current State CEQA Guidelines checklist, which now includes topics (such as greenhouse gas emissions/climate change and tribal cultural resources) added since 1995 and thus not included in the City's current Guidelines;
- Incorporation of CEQA thresholds of significance that reflect current federal, state, and local requirements and that are clear and, when feasible, measurable;
- Inclusion of specific methodologies to be used for the analysis of each environmental issue area;
- Incorporation of concepts, policies, and programs, including the 2030 General Plan, adopted since 1995;
- Inclusion of a process flow chart and environmental review process checklist that will assist applicants, staff, decision makers, and the community in understanding and effectively navigating the CEQA environmental review process; and
- Inclusion of an updated CEQA environmental checklist that reflects the significance thresholds contained in the updated CEQA Guidelines.

The proposed CEQA Guidelines will require periodic updates to remain current. For example, SB 743 requires the Office of Planning and Research to update the State CEQA Guidelines to replace current level of service (LOS) methodologies for transportation impact analysis with a methodology based on vehicle miles traveled (VMT). These changes are expected to be phased in over the next 2 years and, once completed, may warrant an update to the City's CEQA Guidelines.

This project is Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. A Notice of Exemption has been prepared and is attached as Attachment F.

On May 4, 2017 the Planning Commission conducted a study session and considered the updated CEQA Guidelines (see Attachment C for the staff report). The Planning Commission unanimously approved Planning Commission Resolution 2017-11 (Attachment D), recommending that the City Council adopt the updated CEQA Guidelines. The draft May 4, 2017 Planning Commission minutes are attached as Attachment E.

NOTE: Due to size, Attachment B (150 pages) is not included in agenda packets. Copies for review are available at the Help Desk in the Oxnard Main Library, in the City Clerk's office, and on the City's website at www.oxnard.org/city-meetings.

STRATEGIC PRIORITIES

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

Goal 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 budget impact to this action.

ATTACHMENTS:

Attachment A_Resolution

Attachment B_For Agenda Packet

Attachment C_P.C. Staff Report

Attachment D_Resolution No. 2017-11

Attachemnt E_May 4 2017 P.C. Draft Minutes

Attachment F_Notice of Exemption

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ADOPTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) THRESHOLD GUIDELINES, ESTABLISHING CRITERIA AND PROCEDURES FOR EVALUATION OF PROJECTS AND PREPARATION OF ENVIRONMENTAL DOCUMENTS. FILED BY THE CITY OF OXNARD DEVELOPMENT SERVICES DEPARTMENT, 214 SOUTH C STREET, OXNARD, CA 93030.

WHEREAS, the City of Oxnard 2030 General Plan was adopted on October 11, 2011; and

WHEREAS, the operative documents of the Oxnard 2030 General Plan consist of (1) the Background Report (2006), and (2) the Goals and Policies Document (2011); and the Housing Element (December 2016); and

WHEREAS, the 2030 General Plan Final Program Environmental Impact Report (PEIR) was presented to the City Council at a public hearing on February 2, 2010, following which the City Council adopted Resolution No.13,770 certifying in accordance with Section 15090 of the State CEQA Guidelines that the Final PEIR was completed in accordance with CEQA, and reflects the independent judgment and analysis of the City; and

WHEREAS, Addendum No. 1 to the Final PEIR was prepared according to State CEQA Guidelines Section 15164 to document environmental impacts of changes to the 2030 General Plan that occurred after February 2, 2010; and

WHEREAS, at the October 11, 2011 hearing, City Council voted 4-1 to adopt the 2030 General Plan and no challenges to the PEIR occurred; and

WHEREAS, the documents and other material that constitute the record of proceedings upon which the 2030 General Plan, PEIR, and Statement of Overriding Considerations and Findings of Fact are located in the Planning Division, and the custodian of the record is the Planning Manager; and

WHEREAS, the California Environmental Quality Act (CEQA) and the State CEQA Guidelines adopted pursuant thereto require the City of Oxnard to adopt objectives, criteria and procedures consistent therewith, and

WHEREAS, on May 4, 2017, the Planning Commission of the City of Oxnard (**"Planning Commission"**) considered the updated CEQA Guidelines and unanimously recommended that the City Council adoption of the updated CEQA Guidelines; and

WHEREAS, the Planning and Environmental Services Division has completed a preliminary environmental assessment of the Project in accordance with CEQA and determined that the Project is subject to a categorical exemption pursuant to Sections 15061 (b)(3)(General Rule); and

WHEREAS, the comments of the City Council, members of the public, and interested groups and agencies have been adequately responded to; and

WHEREAS, the City Council finds that the CEQA Guidelines comply with all requirements of the CEQA and State Guidelines and is consistent with the policies and objectives of the 2030 General Plan.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard finds:

SECTION 1. For the above stated reasons, and the reasons set forth in the Planning Commission and City Council Staff Reports, the City Council of the City of Oxnard finds that the updated CEQA Guidelines will not result in any new significant environmental impacts and will not increase the severity of any previously identified impacts that were not addressed in the 2030 General Plan PEIR, and is exempt from CEQA under Guidelines section 15061(b)(3).

PASSED AND ADOPTED by the City Council of the City of Oxnard on the 20th day of June 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Tim Flynn, Mayor

ATTEST:

Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

CEQA Guidelines

Full Version Available at Oxnard Main Library and City Clerk's Office, and on City website: www.oxnard.org/city-meetings

May 2017

PLANNING COMMISSION
STAFF REPORT

TO: Planning Commission

FROM: Kathleen Mallory, AICP, Planning and Environmental Services Manager
Isidro Figueroa, Principal Planner
Joe Power, AICP, CEP, Consultant

DATE: May 4, 2017

SUBJECT: Updating the City of Oxnard's California Environmental Quality Act (CEQA) Threshold Guidelines.

1) **Recommendation:** That the Planning Commission adopt a resolution recommending that the City Council adopt the updated CEQA Threshold Guidelines (herein referred to as CEQA Guidelines).

2) **Project Description and Applicant:** Update the CEQA Guidelines that were adopted by the City on January 24, 1995. The CEQA Guidelines align with criteria and procedures consistent with CEQA and the orderly evaluation of the environmental impacts associated with projects and the preparation of environmental documents. The applicant is the City of Oxnard's Development Services Department, 214 South C Street, Oxnard.

3) **Background Information:** CEQA was enacted in 1970 to ensure the long-term protection of the environment and requires that public agencies analyze and disclose the physical effects of their actions on the environment. The California legislature writes the statute into law. The Governor's Office of Planning and Research develops the CEQA Guidelines to interpret CEQA statute and published court decisions. The CEQA Guidelines include several appendices that contain useful forms and guidance for lead agencies when performing environmental review.

   To help clarify and standardize decision-making in the environmental review process within the City of Oxnard, the City has established its own CEQA Guidelines. The CEQA Guidelines are offered as guidance to staff, consultants, and the development community in preparing all environmental review documents (including [mitigated] negative declarations and EIRs). Additionally, the CEQA Guidelines are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects and they form the basis of the City's Initial Study and Environmental Review Checklist. The Environmental Review Checklist covers 18 environmental topics.

Subsequent amendments to the CEQA Guidelines were adopted On March 12, 1996 and August 26, 1997. The amendment adopted by the City Council on March 12, 1996 allowed the Planning Commission instead of a hearing officer the duty of determining whether a final environmental impact report (EIR) was in compliance with CEQA. The amendment adopted on August 26, 1997 was amended to change the time within which the City must complete and certify or adopt environmental documents.

4) **Environmental Determination:** This project is Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. A Notice of Exemption has been prepared and is attached as Attachment A.

5) **Analysis:**
   a) **General Discussion:** Since initial adoption, there have been many substantive changes to CEQA and the State CEQA Guidelines. In addition, conditions in the City have changed dramatically and the City has adopted a range of new policies and programs, including the 2030 General Plan and Programmed Environmental Impact Report. The new CEQA Guidelines are intended to address these changes while providing clear direction to developers, consultants, City staff, decision-makers, and the public regarding the preparation of CEQA documents.

CEQA is a state law adopted in 1970 that requires consideration of environmental factors in agency decision-making. CEQA's environmental review requirements apply to all discretionary public agency actions, including actions initiated by the agency (such as a road or water system improvement) and actions proposed by private entities that require a public agency approval. While CEQA includes substantive requirements to mitigate identified "significant" impacts, it is primarily a procedural law that requires a process to consider environmental factors rather than dictating a specific result. Agencies may approve projects despite significant environmental impacts if they follow the appropriate procedures under CEQA, including imposition of feasible mitigation of the identified significant impacts.

The proposed CEQA Guidelines are intended to provide clear direction regarding how to carry out the CEQA environmental review process and what constitutes a significant environmental impact for projects in Oxnard. The proposed CEQA Guidelines borrow heavily from the current State CEQA Guidelines, but differ in some instances to reflect local conditions and issues, and provide additional clarity and specificity with respect to analytical methodologies and standards to be used.

Significance Thresholds

The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the City, based to the extent possible on scientific and factual data. A strict definition of a significant impact is not possible because the significance of an activity may vary with the setting. For example, an activity which is not significant in an urban area may be significant in a rural area (CEQA Guidelines Section 15064). According to CEQA Statutes at Section 21082.2:

(a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record;

(b) The existence of public controversy over the environmental effects of a project shall not require the preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the agency that the project may have a significant effect on the environment;

(c) argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly in accurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence;

(d) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared;

(e) Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.

This key decision as to whether a project may have a significant effect must be based on substantial evidence in the record. Section 15384 of the CEQA Guidelines defines "substantial evidence" as:

(a) Substantial evidence as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to, or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicted upon facts, and expert opinion supported by facts.

In most instances, the evidence in the record provides a clear link to the decision to prepare an EIR, Mitigated Negative Declaration, or Negative Declaration. However, according to the CEQA Guidelines in marginal cases where it is not clear whether there is substantial evidence that a project would have a significant effect on the environment, the Lead Agency is guided by Section 15064 (7(g) of the CEQA Guidelines:

> "After application of the principals set forth above in Section 15064(f), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principal: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR."

Organization

The City's CEQA Guidelines are arranged by issue area, generally in the same order in which the issues appear in the CEQA Initial Study Checklist. The environmental issues addressed in this document include the following:

1. Aesthetics and Urban Design (I)
2. Agricultural Resources (II)
3. Air Quality (III)
4. Biological Resources (IV)
5. Climate Change and Greenhouse Gas Emissions (V)
6. Cultural Resources and Tribal Cultural Resources (VI, VII)
7. Geology and Soils (VIII)
8. Hazards and Hazardous Materials (IX)
9. Hydrology and Water Quality (X)
10. Land Use and Planning (XI)
11. Mineral Resources (XII)
12. Noise (XIII)
13. Population, Education, and Housing (XIV)

14. Public Services and Recreation (XV, XVI)

15. Transportation and Circulation (XVII)

16. Utilities and Energy (XVIII, XIX)

For each environmental issue area, the following information is provided:

1. **Background**. This section summarizes key resources found in the City and identifies references or background information that may be consulted for more descriptions. As a general framework, the goals and policy statements from the 2030 General Plan, which apply to each environmental topic, are listed.

2. **Significance Thresholds**. This section describes the criteria for each environmental issue area that can be used to determine whether a project impact could be significant.

3. **Methods**. This section describes possible evaluation methodologies and other factors to assist in the determination of a significant impact.

The thresholds and methods contained herein are aimed primarily at "project-level" environmental reviews that address specific private development projects or City projects. In some cases, project-level thresholds and methods may not apply to program-level environmental reviews and may need to be adjusted as appropriate on a case-by-case basis. City staff will maintain discretion over the use of thresholds contained herein on program-level reviews.

Key Changes

As noted above, the CEQA Guidelines represent a comprehensive update of the City's current guidelines. Some of the most important changes are:

- Consideration of the current State CEQA Guidelines checklist, which now includes topics (such as greenhouse gas emissions/climate change and tribal cultural resources) added since 1995 and thus not included in the City's current Guidelines; and
- Incorporation of CEQA thresholds of significance that reflect current federal, state, and local requirements and that are clear and, when feasible, measurable; and
- Inclusion of specific methodologies to be used for the analysis of each environmental issue area; and
- Incorporation of concepts, policies, and programs, including the 2030 General Plan, adopted since 1995; and

- Inclusion of a process flow chart and environmental review process checklist that will assist planners, decision makers, and the community in understanding and effectively navigating the CEQA environmental review process; and
- Inclusion of an updated CEQA environmental checklist that reflects the significance thresholds contained in the updated CEQA Guidelines.

It is important to note that although the proposed CEQA Guidelines provide clear general guidance regarding the preparation of CEQA documents, the City will periodically consider projects to which certain provisions of the Guidelines (including the CEQA significance thresholds) will not apply. For example, the thresholds contained in the Guidelines are primarily aimed at "project-level" CEQA review. Examination of "programs" such as a community plan or specific plan may use different methodologies and metrics for determining the significance of environmental impacts from what is included in the CEQA Guidelines.

Also, the proposed CEQA Guidelines will require periodic updates to remain current. For example, SB 743 requires the Office of Planning and Research to update the State CEQA Guidelines to replace current level of service (LOS) methodologies for transportation impact analysis with a methodology based on vehicle miles traveled (VMT). These changes are expected to be phased in over the next 1-2 years and, once completed, may warrant an update to the City's CEQA Guidelines.

Attachments:

A. Notice of Exemption
B. Updated CEQA Guidelines
C. Resolution

Prepared by: _______ IF
Approved by: _______ KM

Attachment A
Notice of Exemption

OXNARD PLANNING DIVISION
214 SOUTH C STREET
OXNARD, CALIFORNIA 93030

CITY OF OXNARD CALIFORNIA

NOTICE OF EXEMPTION

Project Description:
Proposal to Update the CEQA Guidelines that were adopted by the City on January 24, 1995. The CEQA Guidelines align with criteria and procedures consistent with CEQA and the orderly evaluation of the environmental impacts associated with projects and the preparation of environmental documents. The Update to the CEQA Guidelines also intends to help clarify and standardize decision-making in the environmental review process within the City of Oxnard, by having the City establish its own CEQA Guidelines. The CEQA Guidelines are offered as guidance to staff, consultants, and the development community in preparing all environmental review documents (including [mitigated] negative declarations and EIRs). Additionally, the CEQA Guidelines are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects and they form the basis of the City's Initial Study and Environmental Review Checklist.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

☐ Ministerial Project
☒ Categorical Exemption
☐ Statutory Exemption
☐ Emergency Project
☐ Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
☒ No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

Supporting Reasons: Based on California Environmental Quality Act (CEQA) this project is Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.

> Since the CEQA Guidelines are administrative in nature, in that they involve only gathering and disseminating information, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In addition, the adoption of the CEQA Guidelines will not result in any new significant environmental impacts and will not increase the severity of any previously identified impacts that were not addressed in the 2030 General Plan PEIR, and thus the project is exempt from the requirements of CEQA pursuant to state CEQA Guidelines §15061(b)(3).

May 4, 2017	
(Date)	Kathleen Mallory, AICP Planning and Environmental Services Manager

Attachment B

Updated CEQA Guidelines

CEQA Guidelines

May 2017

CITY OF OXNARD CALIFORNIA

Attachment C
Resolution

RESOLUTION NO. 2017-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES, ESTABLISIHING CRITERIA AND PROCEDURES FOR EVALUATION OF PROJECTS AND PREPERATION OF ENVIRONMENTAL DOCUMENTS. FILED BY THE CITY OF OXNARD DEVELOPMENT SERVICES DEPARTMENT, 214 SOUTH C STREET, OXNARD, CA 93030.

WHEREAS, the City of Oxnard 2030 General Plan was adopted on October 11, 2011; and

WHEREAS, the operative documents of the Oxnard 2030 General Plan consist of (1) the Background Report (2006), and (2) the Goals and Policies in October 11, 2011; and

WHEREAS, the 2030 General Plan Final Program Environmental Impact Report (PEIR) was presented to the City Council at a public hearing on February 2, 2010, following which the City Council adopted Resolution No.13,770 certifying in accordance with Section 15090 of the State CEQA Guidelines that the Final PEIR was completed in accordance with CEQA, and reflects the independent judgment and analysis of the City; and

WHEREAS, Addendum No. 1 to the Final PEIR was prepared according to State CEQA Guidelines Section 15164 to document environmental impacts of changes to the 2030 General Plan that occurred after February 2, 2010; and

WHEREAS, at the October 11, 2011 hearing, City Council voted 4-1 to adopt the 2030 General Plan and no challenges to the PEIR occurred; and

WHEREAS, the documents and other material that constitute the record of proceedings upon which the 2030 General Plan, PEIR, and Statement of Overriding Considerations and Findings of Fact are located in the Planning Division, and the custodian of the record is the Planning Manager; and

WHEREAS, the California Environmental Quality Act (CEQA) and the State CEQA Guidelines adopted pursuant thereto require the City of Oxnard to adopt objectives, criteria and procedures consistent therewith, and

WHEREAS, on May 4, 2017, the Planning Commission of the City of Oxnard (**“Planning Commission”**) has considered the updated CEQA Guidelines; and

WHEREAS, the Planning and Environmental Services Division has completed a preliminary environmental assessment of the Project in accordance with CEQA and determined that the Project is subject to a categorical exemption pursuant to Sections 15061 (b)(3)(General Rule); and

WHEREAS, the comments of the Planning Commissioners, members of the public, and interested groups and agencies have been adequately responded to; and

WHEREAS, the Planning Commission finds that the CEQA Guidelines comply with all requirements of the CEQA and State Guidelines and is consistent with the policies and objectives of the 2030 General Plan.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard finds:

SECTION 1. For the above stated reasons, and the reasons set forth in the staff report, the Planning Commission of the City of Oxnard finds that the updated CEQA Guidelines will not result in any new significant environmental impacts and will not increase the severity of any previously identified impacts that were not addressed in the 2030 General Plan PEIR, and is exempt from CEQA under Guidelines section 15061(b)(3).

SECTION 2. The Planning Commission of the City of Oxnard recommends that the City Council adopt the updated CEQA Guidelines.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 4th day of May, 2017.

Deidre Frank, Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held on 4th day of May, 2017, and carried by the following vote:

AYES: Commissioner(s):

NOES: Commissioner(s): None

ABSENT: Commissioner(s): None

ABSTAIN: Commissioner(s): None

Kathleen Mallory, AICP, Secretary

RESOLUTION NO. 2017-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES, ESTABLISHING CRITERIA AND PROCEDURES FOR EVALUATION OF PROJECTS AND PREPARATION OF ENVIRONMENTAL DOCUMENTS. FILED BY THE CITY OF OXNARD DEVELOPMENT SERVICES DEPARTMENT, 214 SOUTH C STREET, OXNARD, CA 93030.

WHEREAS, the City of Oxnard 2030 General Plan was adopted on October 11, 2011; and

WHEREAS, the operative documents of the Oxnard 2030 General Plan consist of (1) the Background Report (2006), and (2) the Goals and Policies in October 11, 2011; and

WHEREAS, the 2030 General Plan Final Program Environmental Impact Report (PEIR) was presented to the City Council at a public hearing on February 2, 2010, following which the City Council adopted Resolution No.13,770 certifying in accordance with Section 15090 of the State CEQA Guidelines that the Final PEIR was completed in accordance with CEQA, and reflects the independent judgment and analysis of the City; and

WHEREAS, Addendum No. 1 to the Final PEIR was prepared according to State CEQA Guidelines Section 15164 to document environmental impacts of changes to the 2030 General Plan that occurred after February 2, 2010; and

WHEREAS, at the October 11, 2011 hearing, City Council voted 4-1 to adopt the 2030 General Plan and no challenges to the PEIR occurred; and

WHEREAS, the documents and other material that constitute the record of proceedings upon which the 2030 General Plan, PEIR, and Statement of Overriding Considerations and Findings of Fact are located in the Planning Division, and the custodian of the record is the Planning Manager; and

WHEREAS, the California Environmental Quality Act (CEQA) and the State CEQA Guidelines adopted pursuant thereto require the City of Oxnard to adopt objectives, criteria and procedures consistent therewith, and

WHEREAS, on May 4, 2017, the Planning Commission of the City of Oxnard (**"Planning Commission"**) has considered the updated CEQA Guidelines; and

WHEREAS, the Planning and Environmental Services Division has completed a preliminary environmental assessment of the Project in accordance with CEQA and determined that the Project is subject to a categorical exemption pursuant to Sections 15061 (b)(3)(General Rule); and

WHEREAS, the comments of the Planning Commissioners, members of the public, and interested groups and agencies have been adequately responded to; and

WHEREAS, the Planning Commission finds that the CEQA Guidelines comply with all requirements of the CEQA and State Guidelines and is consistent with the policies and objectives of the 2030 General Plan.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard finds:

SECTION 1. For the above stated reasons, and the reasons set forth in the staff report, the Planning Commission of the City of Oxnard finds that the updated CEQA Guidelines will not result in any new significant environmental impacts and will not increase the severity of any previously identified impacts that were not addressed in the 2030 General Plan PEIR, and is exempt from CEQA under Guidelines section 15061(b)(3).

SECTION 2. The Planning Commission of the City of Oxnard recommends that the City Council adopt the updated CEQA Guidelines.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 4th day of May, 2017.

Deidre Frank

Deidre Frank, Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held on 4th day of May, 2017, and carried by the following vote:

AYES:	Commissioner(s): Chua; Dozier; Frank; Fuhring; Huber; Sanchez; Stewart
NOES:	Commissioner(s): None
ABSENT:	Commissioner(s): None
ABSTAIN:	Commissioner(s): None

Kathleen Mallory

Kathleen Mallory, AICP, Secretary

MINUTES
OXNARD PLANNING COMMISSION
REGULAR MEETING
May 4, 2017
DRAFT

A. ROLL CALL

At 7:00 p.m., the regular meeting of the Oxnard Planning Commission convened in the Council Chambers. Chair Deirdre Frank, Commissioners Stephen Huber, Robert Sanchez, Vincent Stewart, Orlando Dozier, James Fuhring, and Wilfredo Chua were present. Staff members present were Kathleen Mallory, Planning Manager, Shiri Klima, Assistant City Attorney, Isidro Figueroa, Principal Planner, Paul Wendt, Supervising Civil Engineer, and Dee Lai, Recording Secretary. Chair Deirdre Frank presided and called the meeting to order.

B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES

Commissioner Dozier led the pledge of allegiance.

The three new Commissioners James Fuhring, Robert Sanchez, and Wilfredo Chua provided a brief statement about themselves and expressed their appreciation to the Mayor for giving them the opportunity to serve on the Planning Commission.

C. PUBLIC COMMENTS – Items not on the Agenda

Public comments were received from Walter Hagedohm regarding Short Term Rentals.

D. READING OF AGENDA

Planning Manager Kathleen Mallory reviewed the agenda.

E. CONSENT AGENDA

1. APPROVAL OF MINUTES – March 2, 2017 and April 6, 2017

For the March 2, 2017 minutes, only Chair Frank, Commissioner Huber, Commissioner Stewart, and Commissioner Dozier voted because the three former Commissioners' (Commissioner Okada, Commissioner Nash, and Commissioner Mullin) terms had ended after the March 2, 2017 meeting and they were no longer eligible to vote to take action on the minutes.

MOTION Commissioner Huber moved and Commissioner Dozier seconded a motion to approve the minutes of March 2, 2017. The question was called and the motion carried 3:0:0:1, to approve the minutes of March 2, 2017 as presented. Chair Frank abstained.

MOTION Commissioner Fuhring moved and Commissioner Chua seconded a motion to approve the minutes of April 6, 2017. The question was called and the motion carried 6:0:0:1, to approve the minutes of April 6, 2017 as presented. Commissioner Dozier abstained.

F. PUBLIC HEARING

1. PLANNING AND ZONING PERMIT No. 16-500-08 (Special Use Permit); 16-535-02 (Density Bonus); and 16-300-09 (Tentative Tract Map). A request to construct six affordable (very low income) single-family residences, and a Tentative Tract Map to subdivide five parcels into six parcels on a 0.48 acre Project site located within the La Colonia neighborhood. The single-story homes will range from 1,368 to 1,653 square feet in size and are designed to front Hayes Street with rear access for two-car garage parking off of an existing alley. Although the project includes a density bonus request pursuant to State density bonus law, no additional units are being requested. However, three concessions are requested pursuant to the density bonus law: 1) a reduction in the required rear yard setback from 25 feet to 10 feet; 2) a reduction in the required side yard setback from 10 feet to a range of 3 to 7 feet; and 3) a reduction in the required interior yard space requirement of 30% to a range of between 0% and 4.5%. This project is Exempt from the California Environmental Quality Act (CEQA) pursuant to Statute §21159.23 (Low-Income Housing); Section 15061(b)(3) ("General Rule"); and Section 15332 (In-Fill Development) of the CEQA Guidelines. Filed by Steven J. Dwyer (Habitat for Humanity of Ventura County), 1850 Eastman Avenue, Oxnard, CA 93030.
Project Planner: Isidro Figueroa

Project planner Isidro Figueroa provided a powerpoint presentation outlining the request to construct six affordable (very low income) single-family residences, and a Tentative Tract Map to subdivide five parcels into six parcels on a 0.48 acre project site located within the La Colonia neighborhood. Isidro presented staff's recommendation which was for the Planning Commission to adopt a resolution approving the Special Use Permit, Density Bonus, and the Tentative Tract Map subject to the findings and conditions of approval.

The Planning Commission discussed and inquired about several topics, including: the lack of interior yard space; the onsite wooden telephone pole that is in bad condition and in need of repair; contracting with Edison to relocate the telephone pole; widening of the alley to 20 feet; undergrounding of equipment; density bonus and if smaller houses could be built on the same space; is CG zoned property a part of Regional Housing Needs Assessment (RHNA) numbers; community workshop input and if neighborhood council for this neighborhood were involved; home prices and if the homes are for sale; whether there are any special conditions or requirements on the material used to prevent fire hazard; whether there are any homes dedicated to veterans; existing and future similar development projects planned in other locations in Oxnard; relationship between Habitat for Humanity and the owner; design wise and the possibility of using multi-family units to maximize units to accommodate more families; Habitat for Humanity providing education to homeowners about city codes to avoid code compliance issues such as converting garage space into living space; mortgage and refinance options; deed restrictions; Habitat for Humanity and homeowners partnership during the building phase; ongoing monitoring between Habitat for Humanity, Oxnard Housing Department, and the homeowners; accommodation for individuals with disabilities due to no doors leading from the garage to the house; homes not having air conditioning; project design to maximize units and yard space; and considering solar on future homes.

Commissioner Huber commented about why the environmental and ecological information were not on the staff report. Chair Frank commented about condition number 79 which states "landscape elements shall not block views in or out of windows or glass doors." Kathleen

Mallory commented that it's there to ensure visibility and for public safety purposes and for police surveillance. Commissioner Huber recommended that condition number 79 be removed because it is essentially the same as condition number 78. Chair Frank commented that she also wanted to have condition number 79 removed.

The applicant's representative Steve Dwyer commented on the home selection process. He commented that Habitat for Humanity provided community workshops to give families opportunities to sign up on the interest list and 70 families have already signed up for their first workshop and they expect to receive many more applications. Steve Dwyer stated that the homes are dedicated to low income families with the maximum income of $75,000 for a family of four. Steve Dwyer commented that the thought process when building the homes is to have low cost maintenance for the owners.

The architect for Habitat for Humanity Nicholas Deitch commented that by having zero lot lines to maximize more homes would create a challenge because this would not allow for windows in the bedrooms. He stated that the 3 feet setback provides for more livability. He commented that they are comfortable with the current design and that it is standard like other track homes and apartments being built now.

The Planning Commission thanked Habitat for Humanity for providing this service. Commissioner Huber asked the applicant if he agreed to all the conditions of approval and the applicant responded yes.

All Commissioners' questions and concerns were addressed.

Chair Frank opened the public testimony.

Public comments in support of the project were received from Sal Gonzales and Arturo Casillas. Sal Gonzales who is a residence of Oxnard and the former City of Oxnard Housing Director stated that Habitat for Humanity has worked well and is very successful and he urged the Planning Commission to approve the project which is recommended by City staff. Arturo Casillas, the City of Oxnard Housing Director commented that it's crucial to meet the goal to provide affordable housing and that the grant fund would go back to HUD if the project is not approved. He also urged the Planning Commission to approve the project.

Chair Frank Closed the public testimony.

MOTION Commissioner Chua moved and Commissioner Stewart seconded a motion to adopt a resolution approving PZ 16-500-08 (Special Use Permit); PZ 16-535-02 (Density Bonus); and PZ 16-300-09 (Tentative Tract Map) with the following changes: 1) a correction to the citation of the CEQA Guidelines sections to change from 15322 to 15332 on all 3 resolutions, and 2) to remove condition number 79 on PZ 16-500-08 (Special Use Permit), subject to certain findings and conditions contained within the Resolution of Approval. The question was called and the motion carried unanimously.

2. PLANNING AND ZONING PERMIT NO. 16-500-03 (Special Use Permit) for a Planned Residential Group to redevelop a 7,640 square foot lot located at 600 Cooper Road (APN 201-0-121-170), within the La Colonia Neighborhood. The site is current developed with four legal

non-conforming dwelling units. The existing dwelling units will be demolished. Approval is being requested to construct a 4,170 square foot two-story, mixed-use building. The building will be utilized for two- two-story residential dwelling units each totaling 1,385 square feet and two commercial buildings totaling 1,400 square feet. Through approval of a Planned Residential Group (PRG) permit, the applicant is seeking approval to modify the following development standards: reduction in the front yard setback from 20 feet to 10 feet; reduction in the side yard setback from 5 feet to 0 feet along the easterly property line; elimination of required on site loading and unloading; and a reduction in the required visitor parking spaces for the two residential dwelling units. The project is exempt from the California Environmental Quality Act (CEQA) based upon a Class 1 (Section 15301) and Class 3 (Section 15303) exemption. Filed by designated agent Lizette Elenes with Coastal Architects, on behalf of Elio Avalos 2221 San Mateo Place, Oxnard, California 93033.
Project Planner: Juan Martinez

Kathleen Mallory recommended to the Planning Commission that item F-2 be continued to June 1, 2017.

MOTION Commissioner Huber moved and Commissioner Dozier seconded a motion to continue item F-2 to June 1, 2017. The question was called and the motion carried unanimously.

G. NEW BUSINESS

1. California Environmental Quality Act (CEQA) Guidelines.
Project Planner: Isidro Figueroa

Joe Power with Rincon Consultants provided a powerpoint presentation outlining the update to the City of Oxnard's California Environmental Quality Act (CEQA) Threshold Guidelines. Joe Power presented staff's recommendation which was for the Planning Commission to adopt a resolution recommending that the City Council adopt the updated CEQA Guidelines.

Chair Frank commented that she felt the language on the agenda didn't provide sufficient information on what the CEQA item was about. She stated that she felt the way it was presented on the agenda didn't look like it was an update to the CEQA Guidelines.

The Planning Commission discussed and inquired about several topics, including: traffic; switching from Level of Service (LOS) to Vehicle Miles Travel (VMT) analysis; having a software to do the analysis; making the updated CEQA Guidelines available to the public once it's approved; discretionary action involving CEQA and ministerial action not requiring CEQA review; and the improvements to CEQA Guidelines to make it easier for members of the public to read and understand.

All Commissioners' questions and concerns were addressed.

Chair Frank opened the public testimony.

There were no public comments.

Chair Frank closed the public testimony.

MOTION Commissioner Chua moved and Commissioner Sanchez seconded a motion to adopt a resolution recommending that the City Council adopt the updated CEQA Guidelines, subject to certain findings and conditions contained within the Resolution of Approval. The question was called and the motion carried unanimously.

H. STUDY SESSION/REPORTS

None.

I. PLANNING COMMISSION BUSINESS

Commissioner Huber commented that the Strawberry Festival is coming up and to go out there and take the bus. No other Commissioners spoke at this time.

J. PLANNING MANAGER COMMENTS

Planning Manager Kathleen Mallory commented that there are three items scheduled for June 1, 2017 Planning Commission meeting: the continued item PZ 16-500-03 located at 600 Cooper Rd; PZ 17-550-01, the Aldi project; and the study session on Short Term Rentals (STR). Kathleen stated that nothing has changed since the last study session meeting and the purpose of the June 1st STR study session is to give answers and provide responses to the November 3, 2016 Planning Commission meeting. Kathleen also commented that staff will provide information on what has happened historically on STR's to keep the three new Commissioners up to date and that there will not be any action taken. Ms. Mallory noted that the meeting is an opportunity for the public to provide feedback, and the Commission to provide input. Commissioner Huber inquired if the Commission will be getting their Commission package earlier than the Friday the week before the meeting. Kathleen responded that staff will try to do their best to get the package to the Commission in advance.

K. ADJOURNMENT

At 9:20 p.m., the Planning Commission concurred to adjourn.

____
Deirdre Frank, Chair

ATTEST:

____
Kathleen Mallory, Planning Manager

OXNARD PLANNING DIVISION
214 SOUTH C STREET
OXNARD, CALIFORNIA 93030

NOTICE OF EXEMPTION

Project Description:
Proposal to Update the CEQA Guidelines that were adopted by the City on January 24, 1995. The CEQA Guidelines align with criteria and procedures consistent with CEQA and the orderly evaluation of the environmental impacts associated with projects and the preparation of environmental documents. The Update to the CEQA Guidelines also intends to help clarify and standardize decision-making in the environmental review process within the City of Oxnard, by having the City establish its own CEQA Guidelines. The CEQA Guidelines are offered as guidance to staff, consultants, and the development community in preparing all environmental review documents (including [mitigated] negative declarations and EIRs). Additionally, the CEQA Guidelines are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects and they form the basis of the City's Initial Study and Environmental Review Checklist.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- ☐ Ministerial Project
- ☒ Categorical Exemption
- ☐ Statutory Exemption
- ☐ Emergency Project
- ☐ Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- ☒ No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

Supporting Reasons: Based on California Environmental Quality Act (CEQA) this project is Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.

> Since the CEQA Guidelines are administrative in nature, in that they involve only gathering and disseminating information, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In addition, the adoption of the CEQA Guidelines will not result in any new significant environmental impacts and will not increase the severity of any previously identified impacts that were not addressed in the 2030 General Plan PEIR, and thus the project is exempt from the requirements of CEQA pursuant to state CEQA Guidelines §15061(b)(3).

May 4, 2017
(Date)

Kathleen Mallory, AICP
Planning and Environmental Services
Manager

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Report** **AGENDA ITEM NO.: 1**

DATE: June 27, 2017

TO: City Council

FROM: Stephen Fischer
City Attorney

SUBJECT: Construction and Repair Work Ordinance Amendment (10/20/10)

CONTACT: Stephen Fischer, City Attorney
Stephen.Fischer@oxnard.org, 385-7483

RECOMMENDATION:

That the City Council approve the introduction and first reading by title only and waive further reading of an ordinance amending Article II of Chapter 4 of the City Code regarding public projects to increase bidding thresholds; to amend the change order threshold; to allow the City Council to award projects over the Tier 2 limit as authorized by statute; to increase the City Manager's authority to award and execute public project contracts; to allow delivery of notices by any legally permissible method and to reduce required delivery time for notices inviting formal bids; to delegate the adoption of formally bid project plans, specifications and working details to the City Engineer; and to amend the requirements for the prequalification of contractors.

BACKGROUND

Public projects are heavily regulated by State law. In this context, the term "public project" includes construction, reconstruction, alteration, painting, demolition, and repair work involving any publicly owned, leased, or operated facility. The term "public project" does not include maintenance work.

State law requires that most of these projects be bid out and has very stringent requirements for how such bidding must occur. State law offers an alternative to standard bidding practices in the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 *et. seq.*) ("UPCCAA"). This method of bidding has three tiers: the lowest cost projects that can be performed by force account (City workers), negotiated contract or purchase order

("Tier 1"); higher cost projects, which require "informal bidding" including notifying trade journals for ten-day periods ("Tier 2"); and the highest cost projects, which require "formal bidding" including newspaper publishing and notifying trade journals for thirty-day periods ("Tier 3"). According to the State Controller, as of April 17, 2017, 1040 public agencies participate in the UPCCAA.

When public agencies adopt the UPCCAA, they may adopt up to the dollar values listed in State law. Similarly, the UPCCAA lists the minimum requirements for public bidding, but a public agency may always impose more onerous requirements.

The City of Oxnard has adopted the UPCCAA. This is codified in City Code Sections 4-5 through 4-14, a copy of which is attached to this staff report. However, every few years the City needs to update this portion of the City Code because the Legislature modifies the statutes, the construction industry changes (with a fluctuating economy), and the City grows. The proposed ordinance offers seven critical changes to the City's UPCCAA ordinance plus a few minor ones.

Proposed Change 1: Increase the Bidding Thresholds for Public Projects

The UPCCAA created the California Uniform Construction Cost Accounting Commission, which considers every five (5) years whether there have been material changes in public construction costs in order to make recommendations to the State Controller regarding adjustments in these tier limits. Currently, State statutes limit Tier 1 projects to $45,000 and Tier 2 projects to $175,000. However, the City Code limits Tier 1 projects to $25,000 and Tier 2 projects to either $100,000 or $125,000. (The City Code is inconsistent.) The proposed ordinance aligns the City's tier thresholds with the State's thresholds. Further, in order to not have to update the ordinance every five (5) years, the ordinance is drafted to automatically change the limits when the relevant State statutes change. The efficiencies to be gained by aligning with the State's thresholds are explained below.

Tier 1 projects may be completed by force account (such that City staff can resolve small projects in-house) or by expedited contracting so that these contracts do not have to be published for a lengthy bid period. For example, after the golf course clubhouse fire, the operator wanted to make some minor changes using his or the City's staff to be able to continue using the banquet room for weddings and other such events pending more significant restoration work. However, the operator's estimate of the minor work came to approximately $33,000, so this could not be done in-house because the City's current force account limit is $25,000. Instead, staff had to bid the work, and since staff was already bidding out the larger restoration project, the project manager decided to merge this minor work with the overall reconstruction as a Tier 3 bid. (The project manager decided not to phase the project using Tier 2.) Thus, what minor issues might have been resolved in a week, which would have allowed the operator to continue with its schedule of special events, is now taking many months. This has led to a loss of revenue, both for the operator and the City, due to lost bookings. If the City had a Tier 1 limit of $45,000 at that time, delays and lost revenues would have been avoided.

Tier 2 projects are not required to be published in the newspaper, whereas bidding for Tier 3 projects does require publishing notice. A notice inviting bids costs the City anywhere from $400 to $700 each time it is published in a newspaper. However, most contractors check the construction trade journals and City's website for public project listings more than the newspaper these days. Thus, less publishing in the newspaper for this particular purpose is more cost effective for the City. Additionally, Tier 2's ten-day bidding period expands to thirty days for Tier 3 projects, and this causes a significant delay for City projects.

Proposed Change 2: Amend the Change Order Threshold to the Contingency Amount

A change order alters some condition of a public project's contract documents such as the price, unit quantity, completion date, or plans and specifications after award of that contract. These are common in public projects as many conditions cannot be foreseen and construction projects typically change in minor ways throughout the process.

A contingency is an extra allowance allocated by a contract's awarding individual or entity for the unknown risks associated with a public project. Typically, contingencies on public projects are ten percent of the project cost, but in some complex projects the contingency may be higher. The contingency is held in reserve to fund change orders.

State law is silent on the issue of thresholds for approving change orders. In Oxnard, a department director is authorized to execute any change order up to $25,000, and anything greater comes before the Council. However, this seems inconsistent with the Council approving contingencies on public projects. For example, if a contract for a public project is valued at $600,000, and the Council has approved a contingency of ten percent, it seems that Council has pre-approved change orders for the project up to $60,000.

The proposed ordinance allows a department director to approve and execute all change orders up to the contingency amount and removes the $25,000 limit for director-approved change orders. Once the contingency limit is met, additional change orders would be approved by the City Council and executed by the Mayor.

Suppose staff wanted to issue three change orders in a row, each in the amount of $28,000, in the example of the public project awarded for $600,000 with an approved contingency of $60,000. Under the current procedures, staff would have to come before the Council for each of these change orders. Since coming to the Council often takes three weeks, the project could be held up by over two months. With the system proposed in the ordinance, the first and second change orders could be approved by staff because collectively, they are $56,000 in value, which is under the contingency limit of $60,000. The third change order would exceed the contingency, so the third change order and any change order thereafter would go to the City Council for approval.

Proposed Change 3: Allow Council to Award Projects over the Tier 2 Limit (Also Called the "Informal Bid Limit") As Authorized by Statute

Typically, if all bids return above a tier limit, they must all be rejected, and the project must be rebid. However, the Legislature added an exemption to this rule. For Tier 2 projects where all bids received are greater than the Tier 2 limit, the governing body may, by adoption of a resolution, award the contract slightly over the Tier 2 limit if the governing body determines the cost estimate of the public agency was reasonable. Currently, the Tier 2 limit is $175,000, and the UPCCAA allows the governing body to award a contract up to $187,500.

The City Code states that if all bids received are in excess of the Tier 2 limit, which is currently $125,000, the City Council may award the contract for an amount up to ten percent greater than the Tier 2 limit to the lowest responsible bidder. However, this ten percent provision is problematic: if the City raises the Tier 2 limit to $175,000, aligning with State law, an additional ten percent raises the limit for Council to award a contract up to $192,500, which exceeds the statutory maximum of $187,500. Thus, staff recommends adjusting this amount to $187,500 just like the State. In order to not have to update the ordinance every five (5) years, the ordinance is drafted to automatically change the limit when the relevant State statute changes.

Proposed Change 4: Increase City Manager's Authority to Award and Execute Contracts

The UPCCAA states that the governing body of the public agency may delegate the authority to award Tier 2 project contracts to an appropriate person. In Oxnard, the City Manager may execute all contracts over $25,000 and up to $250,000 after approval by the City Council (hence the City Manager's list); the City Manager may only approve and execute contracts on his or her own that are up to $25,000. This threshold is no different for public projects than it is for other contracts.

Getting a contract on the City Manager's list takes approximately as long as getting any item before the City Council. This causes an unnecessary delay in the construction process. Preparing the bid packet and bidding the project can already take two months or more, so adding two to three more weeks for the award of the contract further delays the project from commencing. Thus, the ordinance proposes that the City Manager have the authority to award and execute all Tier 2 public projects (as proposed up to $175,000).

At the Council's pleasure, the agenda for each Council meeting can include a City Manager's list of new Tier 2 public project contracts the City Manager has awarded and executed; this would not be for Council approval but, rather, a way of keeping the City Council apprised of public project contracts awarded.

Proposed Change 5: Allow for Delivery of Notices by Any Legally Permissible Method and Reduce Delivery Time for Tier 3 Notices (Also Called "Notice Inviting Formal Bids")

The Legislature recently amended various notice provisions to allow project bid notices under the UPCCAA to be delivered by mail, fax or email rather than just by mail. The City Code, however, still only allows such notices to be mailed. This delays the process and is unnecessary in many cases. Also, for a Tier 3 public project, in addition to the City publishing notice inviting formal bids (“NIFB”) in a newspaper 14 calendar days before bid opening, the UPCCAA requires that NIFBs be delivered to all required construction trade journals 15 calendar days before bid opening, whereas the City Code requires such notices 30 calendar days before bid opening.

Since technology changes all the time, rather than update the ordinance with the latest mode of communication, the ordinance is drafted to automatically allow for any legally permissible method of sending public project notices. Currently, those methods are email, fax and mail, but this list may change in time. Also, the proposed ordinance mimics State law to only require 15-day notice to construction trade journals.

Proposed Change 6: Delegate Adoption of Plans, Specifications and Working Details to City Engineer

The UPCCAA used to require a participating agency’s governing body to adopt plans, specifications, and working details for Tier 3 public projects. In 2015, Senate Bill 184 changed the relevant statute to say: “The governing body of the participating public agency *or its designated representative* shall adopt plans, specifications, and working details for all [Tier 3 public projects].” (Emphasis added.)

Moreover, a true review of plans and specifications requires an engineer or architect; plans and specifications are typically not something that lay people can read with any real understanding. This responsibility should be delegated to the City Engineer, who can work through the details of a project to see if anything is problematic. In many cases, the City has already paid a contract engineer or architect to prepare and review plans and specifications or City staff has put in many hours to design the project, so this part of the process usually does not yield significant changes. Additionally, removing the requirement of going to the Council for plan approval could eliminate three (3) weeks off of the three-month or more bid process.

Proposed Change 7: Amend the Requirements for Public Projects’ Prequalification

Prequalification is a process of allowing only those bidders that appear to be capable of carrying out a project in an adequate manner to bid on a project. This is prudent on public projects that are complex or where the experience and financial stability of the company are particularly important. Public Contract Code Section 20101 lists the requirements for prequalifying a public project, the California Department of Industrial Relations has developed model guidelines for rating bidders and drafted a standardized questionnaire, and the City elaborates on all these requirements in City Code Section 4-14. The proposed ordinance would amend the City’s current prequalification process in four ways.

First, the City Code only permits prequalification on a project-by-project basis. However, Public Contract Code Section 20101(c) also allows the City to establish a process for prequalifying prospective bidders on a quarterly basis, in which case the prequalification would be valid for one year. This type of prequalification proves valuable in situations where a type of work is complex, but the City may issue bids for multiple projects of that type throughout the year. For example, some cities prequalify electricians. The proposed ordinance would add the quarterly prequalification option.

Second, the City Code sets unnecessarily restrictive requirements regarding when certain prequalification tasks must be done. For example, the City Code requires newspaper publication of the notice inviting bids at least 60 days before the bid opening date, including the requirement for prequalification. However, the prequalification timeline depends on the project(s) and other related circumstances. In some cases, the City can prequalify at the same time as it invites bids. In such a case, the City would put out a notice inviting bids that states prequalification is required. The prequalification packets would be due within ten days such that the bidders know if they have prequalified before bids would be due. Removing the 60-day requirement allows staff to prequalify more bidders because there would not be as long of a delay. Additionally, this change allows the City to attract smaller bidders such as some of the City’s local businesses, which often cannot wait 60 days to bid on a project. The proposed ordinance also removes other deadlines within City Code Section 4-14 as they likewise depend on the project(s) being prequalified and other related circumstances.

Third, the City Code requires the Purchasing Agent to publish in a newspaper the notice inviting bids stating the prequalification process and to mail notices to all required construction trade journals, even if that tier does not require such methods of providing notice. For example, a Tier 2 project is not required to have notice published in a newspaper unless staff is prequalifying for that project. However, if noticing in a particular way on lower tier projects is not required, there is no reason to add new, onerous and expensive notice requirements to prequalify. Removing the publishing requirement for Tier 1 and 2 projects, for example, would allow staff to prequalify more bidders because expenses for publishing notice could be diminished.

Fourth, the City Code states various criteria, such as “insufficient equipment or insufficient personnel with applicable knowledge and experience,” as reasons to deem a contractor “not qualified.” However, which qualities can be used to filter out contractors through prequalification must be carefully legally researched depending on circumstances. There have been many lawsuits in this area, and there is a lot of case law guiding the analysis. Generally, if certain information cannot legally be used to show that the lowest responsive bidder is not responsible (thereby allowing the City to not award the contract to that bidder), that information also cannot be used to screen bidders by prequalification. Deeming a contractor not qualified and thus not allowing it to bid on the basis of not having sufficient equipment, for example, is risky because it may be possible for the contractor to later acquire that equipment. Thus, the proposed ordinance removes the list of conditions that may be used as sufficient grounds to determine that the contractor is “not qualified”; this should be determined on a case-by-case basis by analyzing whether the criteria staff determines are important for certain projects can legally be grounds for disqualifying a contractor.

Additional Minor Proposed Changes

There are also three minor “clean-up” changes proposed. First, the ordinance amends City Code Section 4-6(A)(1) to replace “restoration” with “renovation” in the definition of “public project” in congruence with the language of the UPCCAA. Second, the ordinance amends the language of City Code Section 4-12 to keep the performance and payment bond requirement at projects exceeding $25,000 (or the minimum size project required by the State to have a payment bond) rather than raising it with the Tier 1 limit. Third, the ordinance amends statutory references in City Code Sections 4-12 and 4-13.

Fiscal Policy Taskforce

On April 12, 2017, City staff presented this proposed ordinance to the Fiscal Policy Taskforce. The Taskforce was comfortable passing the ordinance onto Council for its consideration. However, staff has made three changes since the Taskforce presentation. First, the recommendation to the Taskforce regarding change orders was to allow staff to authorize them up to the Tier 1 limit and then Council to authorize them for any amount above the Tier 1 limit; however, upon further consideration, it seemed repetitious to have staff return to the Council with change orders already authorized under a contingency. Second, there was mention to the Taskforce about the 60-day requirement for notices inviting bids for projects the City is prequalifying, but there was no mention of the other changes to City Code Section 4-14 regarding prequalification. Third, the ordinance presented to the Taskforce listed set amounts—such as $45,000 for the Tier 1 limit—rather than referring to the State statutes such that the ordinance would automatically change when the relevant statutes change.

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

By raising the Tier 2 bid limit and by removing the publishing requirement for Tier 1 or 2 projects that will be prequalified, the City will save anywhere from $400 to $700 per notice not published. Otherwise, this ordinance has no financial impact.

ATTACHMENTS:

Attachment A – Proposed Ordinance – Changes Marked

Attachment B – Proposed Ordinance – Clean

Attachment C – Summary of Changes

Attachment D – UPCCAA

Attachment E – Public Contract Code Section 20101 Regarding Prequalification

Attachment F – Current City Code Provisions

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF OXNARD AMENDING ARTICLE II OF CHAPTER 4 OF THE OXNARD CITY CODE REGARDING PUBLIC PROJECTS TO INCREASE THE BIDDING THRESHOLDS; TO AMEND THE CHANGE ORDER THRESHOLD; TO ALLOW THE CITY COUNCIL TO AWARD PROJECTS OVER THE TIER 2 LIMIT AS AUTHORIZED BY STATUTE; TO INCREASE THE CITY MANAGER'S AUTHORITY TO AWARD AND EXECUTE PUBLIC PROJECT CONTRACTS; TO ALLOW DELIVERY OF NOTICES BY ANY LEGALLY PERMISSIBLE METHOD AND TO REDUCE THE REQUIRED DELIVERY TIME FOR NOTICES INVITING FORMAL BIDS; TO DELEGATE THE ADOPTION OF FORMALLY BID PROJECT PLANS, SPECIFICATIONS, AND WORKING DETAILS TO THE CITY ENGINEER; AND TO AMEND THE REQUIREMENTS FOR THE PREQUALIFICATION OF CONTRACTORS.

WHEREAS, the City of Oxnard has elected to become subject to the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 *et. seq.*) ("UPCCAA") in the performance of public projects; and

WHEREAS, the UPCCAA defines the term "public project" to mean: construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility; painting or repainting of any publicly owned, leased, or operated facility; and construction, erection, improvement or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher that are part of a City-owned utility system; and

WHEREAS, the UPCCAA creates three tiers of public projects: projects of the lowest amount may be performed by public agency employees (called "force account"), negotiated contract, or purchase order; projects of a higher amount require bidding by "informal procedures," as set forth in the UPCCAA and in the public agency's code; and projects of the highest amount require bidding by "formal procedures," also as set forth in the UPCCAA and in the public agency's code; and

WHEREAS, City Code Section 4-7 lists the force account limit as $25,000 and the informal bid limit at $100,000 (although City Code Sections 4-9 and 4-10 list this limit as $125,000), but the Legislature has increased the force account limit to $45,000 and the informal bid limit to $175,000 in Public Contract Code Section 22032; and

WHEREAS, City Code Sections 4-7, 4-9 and 4-10 state that any contract award or change order exceeding $25,000 must be approved by the City Council, but there is no such requirement in State law, and this requirement interferes with the City's efficiency and responsiveness to the public without increasing transparency in that the City Council already preapproves contingencies on public projects; and

WHEREAS, City Code Section 4-9 states that if all informal bids received are in excess of $125,000, the City Council may award the contract for an amount up to ten percent greater than such sum to the lowest responsible bidder, but the Legislature has amended this limit in Public Contract Code Section 22034 to $187,500 or less; and

WHEREAS, City Code Sections 4-8, 4-9 and 4-14 state that the City must deliver by mail notices inviting bids to the required construction trade journals and contractors and notices of prequalification to contractors, but the Legislature has amended Public Contract Code Sections 22034, 22036 and 22037 to allow such notices to be sent by mail, fax or email; and

WHEREAS, City Code Section 4-10 states that a notice inviting formal bids must be sent to all construction trade journals at least 30 calendar days before the date of bid opening, but the Legislature has amended Public Contract Code Section 22037 to allow such notices to be sent at least 15 calendar days before the date of opening the bids; and

WHEREAS, City Code Section 4-10 gives only the City Council the authority to adopt plans, specifications and working details for formally bid public projects, but Public Contract Code Section 22039 allows the City Council to delegate this responsibility to a representative; and

WHEREAS, City Code Section 4-14 unnecessarily limits the prequalification of contractors in ways that do not allow flexibility to accommodate different types of projects; and

WHEREAS, the City Council now seeks to amend Article II of Chapter 4 of the Oxnard City Code to be congruent with the State statutes in the UPCCAA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS (with new language underlined and removed language ~~crossed off~~):

Section 1: Subsection (A)(1) of Section 4-6 of the Oxnard City Code is hereby amended to read as follows:

"Construction, reconstruction, erection, alteration, ~~restoration~~ renovation, improvement, demolition and repair work involving any facility owned, leased or operated by the City."

Section 2: Section 4-7 of the Oxnard City Code is hereby amended to read as follows:

"(A) Tier 1: Public projects in the amount listed in Public Contract Code Section 22032(a) ~~of $25,000~~ or less~~-~~, as may be changed from time to time, may be performed by force account, by negotiated contract, or by purchase order. The director of the department in charge of the project is authorized to determine how and by whom the project shall be performed and to execute any contract or purchase order for the project~~,~~. ~~and to execute any change order thereto if that change order, together with the amount of the original contract or purchase order and any previous change orders thereto, does not exceed $25,000. Any change order exceeding such total~~

~~amount shall be submitted for approval by the City Council. All contracts, purchase orders, terminations, amendments and change orders shall be in a form approved by the City Attorney.~~

(B) Tier 2: Public projects from in the amount listed in Public Contract Code Section 22032(b) or less may ~~$25,000.01 to $125,000 shall~~ be contracted for pursuant to the informal bidding procedures contained in Section 4-9.

(C) Tier 3: Public projects of more than the amount listed in Public Contract Code Section 22032(c)~~$125,000~~ shall be contracted for pursuant to the formal bidding procedures contained in Section 4-10.

(D) The director of the department in charge of the project is authorized to approve and execute any change order thereto that, collectively with all other change orders on the project, does not exceed the contingency amount, if any, previously approved for the project. Once the contingency amount is met, any further change orders shall be submitted for approval by the City Council.

(E) All contracts, purchase orders, terminations, amendments and change orders shall be in a form approved by the City Attorney.

(~~D~~F) No person shall split or separate any project into smaller work orders or projects for the purpose of evading the provisions of this Article requiring work to be done by contract after competitive bidding."

Section 3: Subsection B of Section 4-8 of the Oxnard City Code is hereby amended to read as follows:

"The purchasing agent shall maintain a list of the construction trade journals, as determined for the County by the California Uniform Construction Cost Accounting Commission, ~~that are to receive mailed~~ to which the City must deliver notice of all informal and formal construction contracts being bid for work within the County."

Section 4: Section 4-9 of the Oxnard City Code is hereby amended to read as follows:

"(A) When the City intends to contract for a public project ~~from $25,000.01 to $125,000, or~~up to such informal bid limit amount as may from time to time be set forth in ~~the California~~ Public Contract Code Section 22032(b) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall ~~mail~~ deliver a notice inviting informal bids to all contractors on the list for the category of work being bid, to all construction trade journals on the list, and to such other contractors and trade journals as may be requested by the City staff in charge of the project. However, if a project or service essential to the project is proprietary and can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent only to such contractor or contractors.

(B) All ~~mailing~~ delivery of notices inviting informal bids shall be by any legally permissible method and completed not less than ten calendar days before bids are due.

(C) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for the submittal of bids.

(D) The ~~City Council~~ City Manager shall award and execute the contract to the lowest responsible and responsive bidder~~ and the purchasing agent may execute the contract~~.

(E) ~~The purchasing agent and the director of the department in charge of the project are each authorized to reject or to execute any change order to such a contract if the total contract amount after the change order does not exceed $25,000. Any change orders causing a contract to exceed such amount shall be submitted for approval by the City Council.~~ A contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item and increasing time, material and equipment devoted to another aspect or contract line item that, collectively with all other adjustments and change orders on the project, exceeds the contingency amount~~in an amount greater than $25,000~~ shall be submitted for approval to the City Council. If the City Council is not in session or if there exists in the view of the City Manager an immediate need to do so, a change order ~~in an amount greater than $25,000~~ that otherwise would be submitted to the City Council may be approved jointly by the City Manager and the most senior available member of the City Council. The City Manager shall place the jointly executed change order on the agenda for ratification at the next regular City Council meeting occurring more than five days after execution. All change orders that are jointly approved shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(F) If all bids received are in excess of the ~~$125,000 or such~~ informal bid limit amount as may from time to time be set forth in ~~the California~~ Public Contract Code Section 22032(b) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract for an amount up to what is listed in Public Contract Code Section 22034(d),~~10% greater than such sum~~ to the lowest responsible bidder, if the City Council determines that the City's cost estimate was reasonable.

(G) If no bids are received, the project may be performed by negotiated contract approved by the ~~City Council~~ City Manager and executed by the purchasing agent or by City employees by force account. 'No bids' means that no bids at all were received or that no bids that conform to the City's specifications were received or that no bids that conform to the City's specifications were submitted by a responsible bidder.

~~(H) All contracts and change orders governed by this Article shall be in a form approved by the City Attorney."~~

Section 5: Section 4-10 of the Oxnard City Code is hereby amended to read as follows:

"(A) The ~~City Council~~ City Engineer shall adopt plans, specifications and working details for all public projects of more than the ~~$125,000 or such other~~ informal bid limit amount as may from time to time be provided in ~~the~~ Public Contract Code Section 22032(c) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein.

(B) When the City is to contract for a public project of more than the~~$125,000 or such~~ informal bid limit amount as may from time to time be set forth in ~~the California~~ Public Contract Code Section 22032(c) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall prepare a notice inviting formal bids, which shall distinctly describe the project and state the time and place for receiving and opening sealed bids.

(C) At least 14 days before the date of opening the bids, the purchasing agent shall publish the notice in a newspaper of general circulation, printed and published in the City. At least 15 ~~30~~ days before the date of opening the bids, the purchasing agent shall deliver ~~mail~~ the notice to all construction trade journals on the list referred to in Subsection (B) of Section 4-8. The purchasing agent may also give such other notice as the purchasing agent deems proper.

(D) The purchasing agent may reject any bids received. If, after the first invitation for bids, all bids are rejected, the purchasing agent may, after reevaluating the cost estimates for the project:

(1) Abandon the project;

(2) Readvertise for bids; or

(3) Request that the City Council adopt a resolution by a four-fifths vote, declaring that the project can be performed more economically by City employees. If such a resolution is adopted, the purchasing agent may have the project completed by force account.

(E) The City Council shall award any contract to the lowest responsible and responsive bidder and the purchasing agent is authorized to execute such contract.

(F) If no bids are received, the project may be performed by negotiated contract approved by the City Council or by City employees by force account. 'No bids' means that no bids at all were received or that no bids that conform to the City's specifications were received or that no bids that conform to the City's specifications were submitted by a responsible bidder.

(G) ~~The purchasing agent is authorized to execute any change order to a contract awarded pursuant to Subsections (E) or (F) of this Section; provided, however, that the purchasing agent shall submit to the City Council for approval any change order exceeding $25,000. In addition, a~~ A contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item and increase time, in material or equipment devoted to another aspect or contract line item, whether or not deemed a change order, shall, if collectively with all other adjustments and change orders on the project, exceed the contingency amount~~greater than $25,000~~, be submitted for approval to the City Council. If the City Council is not in session or if there exists in the view of the City Manager an immediate need to do so, a change order ~~in an amount greater than $25,000~~ that otherwise would be submitted to the City Council may be approved jointly by the City Manager and the most senior available member of the City Council. The City Manager shall place a jointly approved change order on the agenda for ratification at the next regular City Council meeting occurring more than five days after execution. All change orders that are jointly executed shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(H) In the event of an emergency or if exigent circumstances exist or in the view of the project manager delay would result in a significant cost to the City, the project manager may direct work to the extent necessary to address the emergency or exigent circumstance or avoid the cost to the City. The project manager shall at the earliest opportunity notify the City Manager who shall then contact the senior member of the City Council and follow the procedure set forth in Subsection (G)."

Section 6: Section 4-12 of the Oxnard City Code is hereby amended to read as follows:

"In awarding a contract ~~pursuant to section 4-9 or section 4-10~~ involving an expenditure in excess of the amount listed in Civil Code Section 9550, the purchasing agent shall require both a faithful performance ~~bond in an amount equal to 100% of the contract price~~ and a payment bond, each in the amount required by ~~the Cal. Code of Civil Procedure, Section 3248~~ Civil Code Section 9554. Such bonds shall be issued by an admitted surety insurer and be in the form of a bond, not a deposit in lieu of a bond."

Section 7: Section 4-13 of the Oxnard City Code is hereby amended to read as follows:

"(A) In cases of emergency, including, but not limited to, states of emergency defined in the Cal. Gov't Code, Section 8558, when repair or replacements to public facilities are necessary, the City Council may proceed at once to replace or repair any public facility without adopting plans, specifications or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the City Council, by a contractor, or by a combination of the two. ~~The Cal. Gov't Code,~~ Public Contract Code Section 22050 shall apply when notice for bids to let contracts is not given.

(B) The City Council delegates to the City Manager the authority to order any action pursuant to paragraph (1) of subdivision (a) of ~~the Cal. Gov't Code,~~ Public Contract Code Section 22050."

Section 8: Section 4-14 of the Oxnard City Code is hereby amended to read as follows:

(A) The p~~P~~requalification of bidders may be done in either of two ways:~~.~~

(1) The purchasing agent may require that contractors desiring to bid on a particular public project be prequalified in respect to experience, specialized skills, quality of work, bonding capacity and having sufficient equipment, resources and personnel. For this type of prequalification, t~~T~~he purchasing agent shall prepare a notice inviting ~~formal~~ bids, which shall distinctly describe the project, expressly state the prequalification requirement including the standards of responsibility, where the prequalification application is available, the date, place and time to submit the application, and the date, place and time for receiving and opening sealed bids. The notice shall state that, if an appeal is filed from a prequalification decision, bids will remain sealed until final City action is taken on the appeal. The purchasing agent shall provide this notice in the same manner required of project in that tier.

(2) ~~At least 60 calendar days before the date of opening the bids, the purchasing agent shall publish the notice in a newspaper of general circulation, printed and published in the city, and mail notices to all construction trade journals on the list referred to in section 4-8. The purchasing agent may also give such other notice as the purchasing agent deems proper.~~ The purchasing agent may require that prospective bidders prequalify on a quarterly basis; prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification. For this type of prequalification, the purchasing agent shall prepare a notice inviting prequalification, which shall generally describe the work and shall expressly state the prequalification requirement including the standards of responsibility, where the prequalification application is available, and the date, place and time to submit the application. The purchasing agent shall provide this notice in the same manner required of any project in that tier.

(B) Application for prequalification.

(1) If the purchasing agent requires prequalification of bidders, a contractor desiring to bid on the public project(s) must submit a properly completed application and be determined to be qualified before that contractor's bid is considered.

(2) The purchasing agent may also require one of the following after accepting a prime contractor's bid:

(a) Prequalification of all subcontractors.

(b) Prequalification of subcontractors in certain crafts.

(c) Post-bid qualification review of subcontractors.

(3) Application signatures must be original and signed in ink under penalty of perjury in the manner designated on the application form by an individual who has the legal authority to bind the contractor (an individual that is listed in the Contractors State License Board's records). If any information provided by a contractor becomes inaccurate, the contractor shall immediately notify the purchasing agent and provide updated accurate information in writing, under penalty of perjury.

(4) If two or more business entities submit a bid as part of a joint venture, each entity comprising the joint venture shall submit an application for prequalification.

(5) Contractors shall submit a prequalification application to the purchasing agent on a form prescribed by the City, and honestly, accurately and completely supply all information requested in the application.

(6) Contractors shall submit the application at the place and time specified in the advertisement for bids. An application will not be considered received until the application is properly completed and includes all required supporting data.

(C) Prequalification determination.

(1) The purchasing agent shall create a standing committee, to be known as the prequalification committee ("the committee"), with primary responsibility and authority to carry out the prequalification procedure.

(2) ~~Within ten business days a~~After receipt of a prequalification application, the committee shall review all information provided in the application. The committee may contact any person or entity necessary to verify and/or supplement any of the information requested or provided in the application and may review information from published sources of industry information.

(3) Whenever the committee determines that the nature or extent of the information provided in the application is insufficient or indicates that the contractor is not qualified, the committee shall~~, within ten business days of receipt of the application,~~ contact the contractor to seek additional information~~ and, if desired by the contractor, to schedule an interview to discuss the specific reasons that have caused that preliminary determination~~. The contractor shall submit all additional information requested by the committee.

(4) The committee shall evaluate as a whole all the information provided or obtained and determine on a pass-fail basis whether the contractor is ~~responsible and~~ qualified.~~ In doing so, the committee will use the following descriptive categories:~~

~~(a) Qualified: With respect to the project under consideration, the information demonstrates that the contractor is likely to build an acceptable project in a timely manner using acceptable processes.~~

~~(b) Not Qualified: With respect to the project under consideration, the information demonstrates that the contractor is not likely to build an acceptable project in a timely manner using acceptable processes.~~

~~(5) Notwithstanding the foregoing subsection, if the committee finds, based on substantial evidence, that any of the following conditions exist as to a contractor, such finding shall be sufficient grounds for an overall determination of "Not Qualified":~~

~~(a) Unsatisfactory and/or insufficient experience;~~

~~(b) Insufficient bonding capacity;~~

~~(c) Insufficient equipment or insufficient personnel with applicable knowledge and experience;~~

~~(d) Safety record significantly below industry standards;~~

~~(e) Environmental record significantly below industry standards;~~

~~(f) Denial of prequalification, finding of non-responsibility, debarment, or other substantial irregularities determined by any federal, State, or local government or procurement agency;~~

~~(g) Pattern of unsupported claims;~~

~~(h) Conviction in a civil suit or judgment of guilty in a criminal action for making false claims to any public agency;~~

~~(i) Deceptive, evasive or fraudulent statement or omission in the application or application process; or~~

~~(j) Other substantial deficiencies that are clearly below industry standards and that clearly demonstrate that the contractor is not qualified.~~

(6) If the contractor submits a timely and conforming application, the purchasing agent shall notify~~mail to~~ the contractor ~~a notice of prequalification~~in writing. If this prequalification is for a specific project, the purchasing agent's notice shall be given at least ~~within~~ five business days before bids are scheduled for opening. The notice shall identify the project and state whether or not the contractor is qualified. The notice shall also set forth the specific reasons for a determination that the contractor is not qualified. The purchasing agent shall deliver the notice by any legally permissible method~~deposit the notice in the United States mail, postage prepaid, addressed to the contractor at the address stated in the application~~.

(7) Bids shall not be opened until all contractors that submitted timely and conforming applications are so notified, ~~and~~ the time to file notices of appeal has expired and the final City action has been taken as to all appeals that were filed.

(8) When bids are opened, only the bids of contractors that were determined to be qualified shall be considered.

(D) Appeal.

(1) A contractor determined to be not qualified may appeal the decision of the committee by delivering a written notice of the appeal to the City Manager on or before 5:00 P.M. on the fifth business day after the date that the notice of prequalification was ~~mailed~~ delivered to the contractor. At a minimum, the notice of appeal shall state:

(a) The specific errors that the contractor alleges were made by the City regarding prequalification;

(b) The specific relief sought;

(c) A request to submit additional written materials (if desired);

(d) A request for hearing (if desired), accompanied by the appeal fee set by resolution of the City Council; and

(e) Designation of counsel or any other person (if any) who will represent the contractor in the appeal.

(2) Within ten business days of filing the notice of appeal, the contractor and the committee shall deliver to the City Manager or his/her designee ("the manager"), and to each other, all written materials that each party contends are necessary for the manager to fairly and objectively evaluate and decide appeal.

(3) If requested by the contractor, a hearing will be conducted within ten business days of the filing of additional written materials by the contractor and/or the committee, whichever occurs later, at a time and place determined by the manager. The manager shall give the parties at least 72 hours advance written notice of the hearing.

(4) The hearing shall be open to the public. The contractor shall first present evidence. Thereafter, the committee may present evidence. The manager shall conduct the hearing in an informal fashion and shall not be bound by the technical rules of evidence.

(5) The manager may leave the record of the appeal open for the submission of further evidence or arguments for up to ten business days after the conclusion of the hearing, or to another date agreed to by the parties. If no hearing was requested, the manager may request the parties to file additional written materials. The record of the appeal shall close on the date of filing of additional materials by the contractor and the committee, whichever occurs later.

(6) Unless the manager reasonably determines that special circumstances require delay of the decision, the manager shall, within ten business days of the closing of the record:

(a) In writing, affirm, revise, modify, or reverse the previous determination regarding prequalification, making findings supported by substantial evidence that explain the decision; or

(b) Make no written decision, which shall be considered a decision affirming such determination.

(7) On the day the decision is issued, the manager shall provide the decision to the committee and shall deliver the decision by any legally permissible method ~~deposit the decision in the United States mail, postage prepaid, addressed to the contractor at the address stated in the application~~.

(8) The manager's written decision shall be final City action. If the manager makes no written decision, the previous determination regarding prequalification shall be final City action as of the expiration of the time for the manager's decision.

(9) Judicial review of the manager's decision may be sought in accordance with the Cal. Code of Civil Procedure, Sections 1094.5 and 1094.6. A request for judicial review shall be made in the Superior Court of Ventura County."

Section 9: To the extent this ordinance shall conflict with the provisions of any other ordinance or resolution of the City of Oxnard, this ordinance shall control.

Section 10: If for any reason this ordinance is held invalid or unenforceable, the City Council intends that the ordinance provisions which would have been repealed by this ordinance shall remain in effect as if this ordinance had not been adopted.

Section 11: Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the ordinance.

Section 12: The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _______ was first read on __________, 2017, finally adopted on ___________, 2017, to become effective thirty (30) days thereafter.

PASSED, APPROVED and ADOPTED this _____ day of _____________, 2017, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

____
Tim Flynn, Mayor

ATTEST:

____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF OXNARD AMENDING ARTICLE II OF CHAPTER 4 OF THE OXNARD CITY CODE REGARDING PUBLIC PROJECTS TO INCREASE THE BIDDING THRESHOLDS; TO AMEND THE CHANGE ORDER THRESHOLD; TO ALLOW THE CITY COUNCIL TO AWARD PROJECTS OVER THE TIER 2 LIMIT AS AUTHORIZED BY STATUTE; TO INCREASE THE CITY MANAGER'S AUTHORITY TO AWARD AND EXECUTE PUBLIC PROJECT CONTRACTS; TO ALLOW DELIVERY OF NOTICES BY ANY LEGALLY PERMISSIBLE METHOD AND TO REDUCE THE REQUIRED DELIVERY TIME FOR NOTICES INVITING FORMAL BIDS; TO DELEGATE THE ADOPTION OF FORMALLY BID PROJECT PLANS, SPECIFICATIONS, AND WORKING DETAILS TO THE CITY ENGINEER; AND TO AMEND THE REQUIREMENTS FOR THE PREQUALIFICATION OF CONTRACTORS.

WHEREAS, the City of Oxnard has elected to become subject to the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 *et. seq*.) ("UPCCAA") in the performance of public projects; and

WHEREAS, the UPCCAA defines the term "public project" to mean: construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility; painting or repainting of any publicly owned, leased, or operated facility; and construction, erection, improvement or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher that are part of a City-owned utility system; and

WHEREAS, the UPCCAA creates three tiers of public projects: projects of the lowest amount may be performed by public agency employees (called "force account"), negotiated contract, or purchase order; projects of a higher amount require bidding by "informal procedures," as set forth in the UPCCAA and in the public agency's code; and projects of the highest amount require bidding by "formal procedures," also as set forth in the UPCCAA and in the public agency's code; and

WHEREAS, City Code Section 4-7 lists the force account limit as $25,000 and the informal bid limit at $100,000 (although City Code Sections 4-9 and 4-10 list this limit as $125,000), but the Legislature has increased the force account limit to $45,000 and the informal bid limit to $175,000 in Public Contract Code Section 22032; and

WHEREAS, City Code Sections 4-7, 4-9 and 4-10 state that any contract award or change order exceeding $25,000 must be approved by the City Council, but there is no such requirement in State law, and this requirement interferes with the City's efficiency and responsiveness to the public without increasing transparency in that the City Council already preapproves contingencies on public projects; and

WHEREAS, City Code Section 4-9 states that if all informal bids received are in excess of $125,000, the City Council may award the contract for an amount up to ten percent greater than such sum to the lowest responsible bidder, but the Legislature has amended this limit in Public Contract Code Section 22034 to $187,500 or less; and

WHEREAS, City Code Sections 4-8, 4-9 and 4-14 state that the City must deliver by mail notices inviting bids to the required construction trade journals and contractors and notices of prequalification to contractors, but the Legislature has amended Public Contract Code Sections 22034, 22036 and 22037 to allow such notices to be sent by mail, fax or email; and

WHEREAS, City Code Section 4-10 states that a notice inviting formal bids must be sent to all construction trade journals at least 30 calendar days before the date of bid opening, but the Legislature has amended Public Contract Code Section 22037 to allow such notices to be sent at least 15 calendar days before the date of opening the bids; and

WHEREAS, City Code Section 4-10 gives only the City Council the authority to adopt plans, specifications and working details for formally bid public projects, but Public Contract Code Section 22039 allows the City Council to delegate this responsibility to a representative; and

WHEREAS, City Code Section 4-14 unnecessarily limits the prequalification of contractors in ways that do not allow flexibility to accommodate different types of projects; and

WHEREAS, the City Council now seeks to amend Article II of Chapter 4 of the Oxnard City Code to be congruent with the State statutes in the UPCCAA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1: Subsection (A)(1) of Section 4-6 of the Oxnard City Code is hereby amended to read as follows:

“Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any facility owned, leased or operated by the City.”

Section 2: Section 4-7 of the Oxnard City Code is hereby amended to read as follows:

“(A) Tier 1: Public projects in the amount listed in Public Contract Code Section 22032(a)or less, as may be changed from time to time, may be performed by force account, by negotiated contract, or by purchase order. The director of the department in charge of the project is authorized to determine how and by whom the project shall be performed and to execute any contract or purchase order for the project.

(B) Tier 2: Public projects from in the amount listed in Public Contract Code Section 22032(b) or less may be contracted for pursuant to the informal bidding procedures contained in Section 4-9.
(C) Tier 3: Public projects of more than the amount listed in Public Contract Code Section 22032(c) shall be contracted for pursuant to the formal bidding procedures contained in Section 4-10.
(D) The director of the department in charge of the project is authorized to approve and execute any change order thereto that, collectively with all other change orders on the project, does not exceed the contingency amount, if any, previously approved for the project. Once the contingency amount is met, any further change orders shall be submitted for approval by the City Council.
(E) All contracts, purchase orders, terminations, amendments and change orders shall be in a form approved by the City Attorney.
(F) No person shall split or separate any project into smaller work orders or projects for the purpose of evading the provisions of this Article requiring work to be done by contract after competitive bidding."

Section 3: Subsection B of Section 4-8 of the Oxnard City Code is hereby amended to read as follows:

"The purchasing agent shall maintain a list of the construction trade journals, as determined for the County by the California Uniform Construction Cost Accounting Commission, to which the City must deliver notice of all informal and formal construction contracts being bid for work within the County."

Section 4: Section 4-9 of the Oxnard City Code is hereby amended to read as follows:

"(A) When the City intends to contract for a public project up to such informal bid limit amount as may from time to time be set forth in Public Contract Code Section 22032(b) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall deliver a notice inviting informal bids to all contractors on the list for the category of work being bid, to all construction trade journals on the list, and to such other contractors and trade journals as may be requested by the City staff in charge of the project. However, if a project or service essential to the project is proprietary and can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent only to such contractor or contractors.
(B) All delivery of notices inviting informal bids shall be by any legally permissible method and completed not less than ten calendar days before bids are due.
(C) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for the submittal of bids.
(D) The City Manager shall award and execute the contract to the lowest responsible and responsive bidder.
(E) A contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract

line item and increasing time, material and equipment devoted to another aspect or contract line item that, collectively with all other adjustments and change orders on the project, exceeds the contingency amount shall be submitted for approval to the City Council. If the City Council is not in session or if there exists in the view of the City Manager an immediate need to do so, a change order that otherwise would be submitted to the City Council may be approved jointly by the City Manager and the most senior available member of the City Council. The City Manager shall place the jointly executed change order on the agenda for ratification at the next regular City Council meeting occurring more than five days after execution. All change orders that are jointly approved shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(F) If all bids received are in excess of the informal bid limit amount as may from time to time be set forth in Public Contract Code Section 22032(b) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract for an amount up to what is listed in Public Contract Code Section 22034(d), to the lowest responsible bidder, if the City Council determines that the City's cost estimate was reasonable.

(G) If no bids are received, the project may be performed by negotiated contract approved by the City Manager and executed by the purchasing agent or by City employees by force account. 'No bids' means that no bids at all were received or that no bids that conform to the City's specifications were received or that no bids that conform to the City's specifications were submitted by a responsible bidder."

<u>Section 5:</u> Section 4-10 of the Oxnard City Code is hereby amended to read as follows:

"(A) The City Engineer shall adopt plans, specifications and working details for all public projects of more than the informal bid limit amount as may from time to time be provided in Public Contract Code Section 22032(c) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein.

(B) When the City is to contract for a public project of more than the informal bid limit amount as may from time to time be set forth in Public Contract Code Section 22032(c) for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall prepare a notice inviting formal bids, which shall distinctly describe the project and state the time and place for receiving and opening sealed bids.

(C) At least 14 days before the date of opening the bids, the purchasing agent shall publish the notice in a newspaper of general circulation, printed and published in the City. At least 15 days before the date of opening the bids, the purchasing agent shall deliver the notice to all construction trade journals on the list referred to in Subsection (B) of Section 4-8. The purchasing agent may also give such other notice as the purchasing agent deems proper.

(D) The purchasing agent may reject any bids received. If, after the first invitation for bids, all bids are rejected, the purchasing agent may, after reevaluating the cost estimates for the project:

(1) Abandon the project;

(2) Readvertise for bids; or

(3) Request that the City Council adopt a resolution by a four-fifths vote, declaring that the project can be performed more economically by City employees. If such a resolution is adopted, the purchasing agent may have the project completed by force account.

(E) The City Council shall award any contract to the lowest responsible and responsive bidder and the purchasing agent is authorized to execute such contract.

(F) If no bids are received, the project may be performed by negotiated contract approved by the City Council or by City employees by force account. 'No bids' means that no bids at all were received or that no bids that conform to the City's specifications were received or that no bids that conform to the City's specifications were submitted by a responsible bidder.

(G) A contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item and increase time, in material or equipment devoted to another aspect or contract line item, whether or not deemed a change order, shall, if collectively with all other adjustments and change orders on the project, exceed the contingency amount, be submitted for approval to the City Council. If the City Council is not in session or if there exists in the view of the City Manager an immediate need to do so, a change order that otherwise would be submitted to the City Council may be approved jointly by the City Manager and the most senior available member of the City Council. The City Manager shall place a jointly approved change order on the agenda for ratification at the next regular City Council meeting occurring more than five days after execution. All change orders that are jointly executed shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(H) In the event of an emergency or if exigent circumstances exist or in the view of the project manager delay would result in a significant cost to the City, the project manager may direct work to the extent necessary to address the emergency or exigent circumstance or avoid the cost to the City. The project manager shall at the earliest opportunity notify the City Manager who shall then contact the senior member of the City Council and follow the procedure set forth in Subsection (G)."

Section 6: Section 4-12 of the Oxnard City Code is hereby amended to read as follows:

"In awarding a contract involving an expenditure in excess of the amount listed in Civil Code Section 9550, the purchasing agent shall require both a faithful performance and a payment bond, each in the amount required by Civil Code Section 9554. Such bonds shall be issued by an admitted surety insurer and be in the form of a bond, not a deposit in lieu of a bond."

Section 7: Section 4-13 of the Oxnard City Code is hereby amended to read as follows:

"(A) In cases of emergency, including, but not limited to, states of emergency defined in the Cal. Gov't Code, Section 8558, when repair or replacements to public facilities are necessary, the City Council may proceed at once to replace or repair any public facility without adopting plans, specifications or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the City Council, by a contractor, or by a combination of the two. Public Contract Code Section 22050 shall apply when notice for bids to let contracts is not given.

(B) The City Council delegates to the City Manager the authority to order any action pursuant to paragraph (1) of subdivision (a) of Public Contract Code Section 22050."

Section 8: Section 4-14 of the Oxnard City Code is hereby amended to read as follows:

"

(A) The prequalification of bidders may be done in either of two ways:

(1) The purchasing agent may require that contractors desiring to bid on a particular public project be prequalified in respect to experience, specialized skills, quality of work, bonding capacity and having sufficient equipment, resources and personnel. For this type of prequalification, the purchasing agent shall prepare a notice inviting bids, which shall distinctly describe the project, expressly state the prequalification requirement including the standards of responsibility, where the prequalification application is available, the date, place and time to submit the application, and the date, place and time for receiving and opening sealed bids. The notice shall state that, if an appeal is filed from a prequalification decision, bids will remain sealed until final City action is taken on the appeal. The purchasing agent shall provide this notice in the same manner required of project in that tier.

(2) The purchasing agent may require that prospective bidders prequalify on a quarterly basis; prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification. For this type of prequalification, the purchasing agent shall prepare a notice inviting prequalification, which shall generally describe the work and shall expressly state the prequalification requirement including the standards of responsibility, where the prequalification application is available, and the date, place and time to submit the application. The purchasing agent shall provide this notice in the same manner required of any project in that tier.

(B) Application for prequalification.

(1) If the purchasing agent requires prequalification of bidders, a contractor desiring to bid on the public project(s) must submit a properly completed application and be determined to be qualified before that contractor's bid is considered.

(2) The purchasing agent may also require one of the following after accepting a prime contractor's bid:

(a) Prequalification of all subcontractors.

(b) Prequalification of subcontractors in certain crafts.

(c) Post-bid qualification review of subcontractors.

(3) Application signatures must be original and signed in ink under penalty of perjury in the manner designated on the application form by an individual who has the legal authority to bind the contractor (an individual that is listed in the Contractors State License Board's records). If any information provided by a contractor becomes inaccurate, the contractor shall immediately notify the purchasing agent and provide updated accurate information in writing, under penalty of perjury.

(4) If two or more business entities submit a bid as part of a joint venture, each entity comprising the joint venture shall submit an application for prequalification.

(5) Contractors shall submit a prequalification application to the purchasing agent on a form prescribed by the City, and honestly, accurately and completely supply all information requested in the application.

(6) Contractors shall submit the application at the place and time specified in the advertisement for bids. An application will not be considered received until the application is properly completed and includes all required supporting data.

(C) Prequalification determination.

(1) The purchasing agent shall create a standing committee, to be known as the prequalification committee ("the committee"), with primary responsibility and authority to carry out the prequalification procedure.

(2) After receipt of a prequalification application, the committee shall review all information provided in the application. The committee may contact any person or entity necessary to verify and/or supplement any of the information requested or provided in the application and may review information from published sources of industry information.

(3) Whenever the committee determines that the nature or extent of the information provided in the application is insufficient or indicates that the contractor is not qualified, the committee shall contact the contractor to seek additional information. The contractor shall submit all additional information requested by the committee.

(4) The committee shall evaluate as a whole all the information provided or obtained and determine on a pass-fail basis whether the contractor is qualified.

(6) If the contractor submits a timely and conforming application, the purchasing agent shall notify the contractor in writing. If this prequalification is for a specific project, the purchasing agent's notice shall be given at least five business days before bids are scheduled for opening. The notice shall identify the project and state whether or not the contractor is qualified. The notice shall also set forth the specific reasons for a determination that the contractor is not qualified. The purchasing agent shall deliver the notice by any legally permissible method.

(7) Bids shall not be opened until all contractors that submitted timely and conforming applications are so notified, the time to file notices of appeal has expired and the final City action has been taken as to all appeals that were filed.

(8) When bids are opened, only the bids of contractors that were determined to be qualified shall be considered.

(D) Appeal.

(1) A contractor determined to be not qualified may appeal the decision of the committee by delivering a written notice of the appeal to the City Manager on or before 5:00 P.M. on the fifth business day after the date that the notice of prequalification was delivered to the contractor. At a minimum, the notice of appeal shall state:

(a) The specific errors that the contractor alleges were made by the City regarding prequalification;

(b) The specific relief sought;

(c) A request to submit additional written materials (if desired);

(d) A request for hearing (if desired), accompanied by the appeal fee set by resolution of the City Council; and

(e) Designation of counsel or any other person (if any) who will represent the contractor in the appeal.

(2) Within ten business days of filing the notice of appeal, the contractor and the committee shall deliver to the City Manager or his/her designee ("the manager"), and to each

other, all written materials that each party contends are necessary for the manager to fairly and objectively evaluate and decide appeal.

(3) If requested by the contractor, a hearing will be conducted within ten business days of the filing of additional written materials by the contractor and/or the committee, whichever occurs later, at a time and place determined by the manager. The manager shall give the parties at least 72 hours advance written notice of the hearing.

(4) The hearing shall be open to the public. The contractor shall first present evidence. Thereafter, the committee may present evidence. The manager shall conduct the hearing in an informal fashion and shall not be bound by the technical rules of evidence.

(5) The manager may leave the record of the appeal open for the submission of further evidence or arguments for up to ten business days after the conclusion of the hearing, or to another date agreed to by the parties. If no hearing was requested, the manager may request the parties to file additional written materials. The record of the appeal shall close on the date of filing of additional materials by the contractor and the committee, whichever occurs later.

(6) Unless the manager reasonably determines that special circumstances require delay of the decision, the manager shall, within ten business days of the closing of the record:

(a) In writing, affirm, revise, modify, or reverse the previous determination regarding prequalification, making findings supported by substantial evidence that explain the decision; or

(b) Make no written decision, which shall be considered a decision affirming such determination.

(7) On the day the decision is issued, the manager shall provide the decision to the committee and shall deliver the decision by any legally permissible method.

(8) The manager's written decision shall be final City action. If the manager makes no written decision, the previous determination regarding prequalification shall be final City action as of the expiration of the time for the manager's decision.

(9) Judicial review of the manager's decision may be sought in accordance with the Cal. Code of Civil Procedure, Sections 1094.5 and 1094.6. A request for judicial review shall be made in the Superior Court of Ventura County."

Section 9: To the extent this ordinance shall conflict with the provisions of any other ordinance or resolution of the City of Oxnard, this ordinance shall control.

Section 10: If for any reason this ordinance is held invalid or unenforceable, the City Council intends that the ordinance provisions which would have been repealed by this ordinance shall remain in effect as if this ordinance had not been adopted.

Section 11: Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the ordinance.

Section 12: The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No.

_______ was first read on __________, 2017, finally adopted on ___________, 2017, to become effective thirty (30) days thereafter.

PASSED, APPROVED and ADOPTED this _____ day of _____________, 2017, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

____
Tim Flynn, Mayor

ATTEST:

____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

Summary of Changes

Topic	Current Oxnard City Code Requirement	State Statute Requirement	Proposed Change to Oxnard City Code
1. Bidding Thresholds for Public Projects	Tier 1 limit: public projects up to $25,000 Tier 2 limit: public projects up to $100,000 or $125,000	Tier 1 limit: public projects up to $45,000 Tier 2 limit: public projects up to $175,000	Raise Tier 1 and 2 limits to State limits. When the State's limits change, the City's limits automatically change.
2. Change Order Threshold	Department director may execute any change order up to $25,000. Anything greater must be submitted to the City Council.	Silent on this issue.	Department director may execute change orders up to contin-gency, above which the City Council must approve change order.
3. Awarding Projects Slightly over the Tier 2 Limit	If all Tier 2 bids come in greater than $125,000, City Council may award a contract up to 10% higher ($137,500) to lowest bidder.	If all Tier 2 bids come in greater than $175,000, governing body may award a contract at $187,500 or less to lowest bidder.	Raise limit to State limit. When State's limit changes, the City's limit automatically changes.
4. City Manager's Authority to Award and Execute Public Project Contracts	City Manager may execute all contracts over $25,000 and up to $250,000 after award by the City Council.	Governing body may delegate authority to award Tier 2 projects' contracts to any appropriate person.	City Manager may award and execute all public project contracts over $45,000 and up to $175,000.
5. Delivery of Notices and Reducing Delivery Time for Tier 3 Notices	Staff must mail required legal notices. Staff must mail NIFBs to required trade journals 30 days before bid opening.	Notices can be mailed, emailed or faxed. Staff must send NIFBs to required trade journals 15 days before bid opening.	Allow all legally permissible methods of delivering notice. Reduce required delivery time for NIFBs to State's requirement.
6. Adoption of Plans, Specifications and Working Details	City Council must adopt plans, specifications and working details for Tier 3 public projects.	Governing body or its representative adopts plans, specifications, and working details for Tier 3 public projects.	Delegate the adoption of plans, specifications and working details to the City Engineer.
7. Prequalification	Staff can prequalify one project at a time, there are set timelines, all prequalification notices must be published, and certain criteria to deem a contractor "not qualified" are listed.	The City may also prequalify bidders quarterly, there are no set timelines or specific methods of delivery, and which qualities can be used to filter out bidders through prequalification is a nuanced area of law.	Allow staff to prequalify bidders quarterly, remove various timing requirements and the criteria to deem a contractor "not qualified," and replace publishing requirement with providing whatever notice that tier requires.

UPCCAA

PUBLIC CONTRACT CODE - PCC
DIVISION 2. GENERAL PROVISIONS [1100 - 22355]
PART 3. CONTRACTING BY LOCAL AGENCIES [20100 - 22178]
CHAPTER 2. Bidding on Public Contracts [22000 - 22045]

ARTICLE 1. Legislative Intent and Definitions [22000 - 22003]

22000.

This chapter shall be known and may be cited as the "Uniform Public Construction Cost Accounting Act."
(Added by renumbering Section 21000 (as added by Stats. 1983, Ch. 1054) by Stats. 1986, Ch. 1019, Sec. 37.)

22001.

The Legislature finds and declares that there is a statewide need to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state. This chapter provides for the development of cost accounting standards and an alternative method for the bidding of public works projects by public entities.
(Added by renumbering Section 21001 (as added by Stats. 1983, Ch. 1054) by Stats. 1986, Ch. 1019, Sec. 38.)

22001.5.

On or before January 1, 2009, the Controller shall send a notice to all public agencies describing the provisions of this chapter and the benefits of using its provisions. This notice shall also be included in any notification issued by the Controller pursuant to Section 22020.
(Added by Stats. 2007, Ch. 144, Sec. 1. Effective January 1, 2008.)

22002.

(a) "Public agency," for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Public agency" also includes a nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.
(b) "Representatives of the construction industry" for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.
(c) "Public project" means any of the following:
(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
(2) Painting or repainting of any publicly owned, leased, or operated facility.
(3) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.
(d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:
(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
(2) Minor repainting.
(3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
(5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.
(e) For purposes of this chapter, "facility" means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.
(Amended by Stats. 1989, Ch. 733, Sec. 1.)

22003.

A public agency which has, by resolution, elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010), may utilize the bidding procedures set forth in Article 3 (commencing with Section 22030) when contracting for "maintenance work," as defined in Section 22002, or when contracting for any other work which does not fall within the definition of "public project," as defined in Section 22002.
(Added by Stats. 1989, Ch. 241, Sec. 1.)

ARTICLE 2. California Uniform Construction Cost Accounting Commission [22010 - 22020]
[skipped 22010-22016 as not relevant]

22017.

The commission shall do all of the following:
(a) After due deliberation and study, recommend for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and be uniformly applicable to all public agencies which elect to utilize the uniform procedures. As part of its deliberations and review, the commission shall take into consideration relevant provisions of the Office of Management and Budget Circular A-76, as periodically revised.
(b) After due deliberation and study, recommend for adoption by the Controller cost accounting procedures designed especially for implementation by California cities with a population of less than 75,000. The procedures shall incorporate cost accounting and reporting requirements deemed practicable and applicable to all cities under 75,000 population which elect to utilize the uniform procedures. For purposes of these cost accounting procedures, the following shall apply:
(1) Cities with a population of less than 75,000 shall assume an overhead rate equal to 20 percent of the total costs of a public project, including the costs of material, equipment, and labor.
(2) Cities with a population of more than 75,000 may either calculate an actual overhead rate or assume an overhead rate equal to 30 percent of the total costs of a public project, including the costs of material, equipment, and labor.
(c) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 22032.
(d) The commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.
(Amended by Stats. 2015, Ch. 269, Sec. 27. Effective January 1, 2016.)

22018.

The Controller shall, upon receipt of the commission's recommendations, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission by the commission.
(Added by renumbering Section 21108 by Stats. 1986, Ch. 1019, Sec. 48.)

22019.

Upon determining that the recommended uniform construction cost accounting procedures will serve the best interests of the state and public agencies, and upon formal adoption by the Controller, the Controller shall promulgate the uniform procedure for all public agencies electing to participate, together with instructions for their adoption and implementation by any public agency.
(Added by renumbering Section 21109 by Stats. 1986, Ch. 1019, Sec. 49.)

22020.

In accordance with procedures and standards adopted pursuant to Section 22017, every five years the commission shall consider whether there have been material changes in public construction costs and make recommendations to the Controller regarding adjustments in the monetary limits prescribed by Section 22032, but in no case shall the amount, as adjusted, be less than fifteen thousand dollars ($15,000). Any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller's notification to all public agencies of the adjustment. That notification shall also describe the provisions of this chapter and the benefits of using its provisions.
(Amended by Stats. 2007, Ch. 144, Sec. 2. Effective January 1, 2008.)

ARTICLE 3. Public Projects: Alternative Procedure [22030 - 22045]

22030.

(a) This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.
(b) A county, whether general law or charter, containing a population of less than 500,000 may award individual annual contracts as provided in Section 20128.5.
(Amended by Stats. 2015, Ch. 269, Sec. 28. Effective January 1, 2016.)

22031.

(a) Prior to January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.
(b) On or after January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1 for both of the following:
(1) Maintenance and emergency work.
(2) New road construction and road reconstruction as long as the total value of the new road construction and the road reconstruction performed under the procedures set forth in subdivision (c) of Section 20395 during a fiscal year does not exceed 30 percent of the total value of all work performed by force account other than

maintenance as reported in the Controller's Streets and Roads Annual Report as of March 1 of each year prior to the fiscal year.
(c) The value of force account work necessary to facilitate capital projects for the purpose of contracting to the private sector, including design, engineering, inspection, testing, and other force account work necessary to administer private contracts, shall be excluded from the 30-percent limit in subdivision (b).
(d) The value of force account work necessary to facilitate projects performed by county employees, including design, engineering, inspection, testing, and other force account work necessary to administer work performed under subdivision (b), shall apply to the 30-percent limit in subdivision (b).
(e) On or after January 1, 2013, for a county with a population of less than 50,000, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.
(f) The requirements set forth in Section 22038 shall apply to any county subject to this section.
(g) Any county board of supervisors or county road commissioner acting pursuant to the authority granted in paragraph (2) of subdivision (b) shall publicly declare its intention to use this authority prior to commencing work. The public declaration may be on a project-by-project basis, via a list of anticipated projects for the fiscal year, or via a list that may be included in the county's annual budget.
(Amended by Stats. 2014, Ch. 345, Sec. 3. Effective January 1, 2015.)

22032.

(a) Public projects of forty-five thousand dollars ($45,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
(b) Public projects of one hundred seventy-five thousand dollars ($175,000) or less may be let to contract by informal procedures as set forth in this article.
(c) Public projects of more than one hundred seventy-five thousand dollars ($175,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.
(Amended by Stats. 2011, Ch. 683, Sec. 2. Effective January 1, 2012.)

22033.

It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.
(Added by renumbering Section 21203 (as added by Stats. 1983, Ch. 1054) by Stats. 1986, Ch. 1019, Sec. 54.)

22034.

Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:
(a) Notice to contractors shall be provided in accordance with either paragraph (1) or (2), or both.
(1) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission. All contractors on the list for the category of work being bid shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailing of notices to contractors pursuant to this subdivision shall be completed not less than 10 calendar days before bids are due.
(2) The public agency may elect to mail, fax, or email a notice inviting informal bids to all construction trade journals specified in Section 22036.
(b) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.
(c) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

(d) If all bids received are in excess of one hundred seventy-five thousand dollars ($175,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars ($187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.
(Amended by Stats. 2015, Ch. 269, Sec. 29. Effective January 1, 2016.)

22035.

(a) In cases of emergency when repair or replacements are necessary, the governing body may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contractor, or by a combination of the two.
(b) In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 (commencing with Section 22050).
(Repealed and added by Stats. 1994, Ch. 803, Sec. 87. Effective January 1, 1995.)

22035.5.

In counties that are under court order to relieve justice facility overcrowding, the procedures and restrictions specified in Section 20134 shall apply to all contracts issued under this chapter.
(Added by Stats. 1991, Ch. 993, Sec. 1.)

22036.

The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed, faxed, or emailed notice of all informal and formal construction contracts being bid for work within the specified county.
(Amended by Stats. 2015, Ch. 269, Sec. 30. Effective January 1, 2016.)

22037.

Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the public agency; or, if there is no newspaper printed and published within the jurisdiction of the public agency, in a newspaper of general circulation which is circulated within the jurisdiction of the public agency, or, if there is no newspaper which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three places within the jurisdiction of the public agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. The notice inviting formal bids shall also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals specified in Section 22036. The notice shall be sent at least 15 calendar days before the date of opening the bids. In addition to notice required by this section, the public agency may give such other notice as it deems proper.
(Amended by Stats. 2010, Ch. 62, Sec. 1. Effective January 1, 2011.)

22038.

(a) In its discretion, the public agency may reject any bids presented, if the agency, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the agency, furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the agency's intention to reject the bid and shall be mailed at least two business days prior to the hearing at which the agency intends to reject the bid.

If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:
(1) Abandoning the project or readvertising for bids in the manner described by this article.
(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.
(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.
(c) If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without further complying with this article.
(Amended by Stats. 2003, Ch. 296, Sec. 29. Effective January 1, 2004.)

22039.

The governing body of the participating public agency or its designated representative shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.
(Amended by Stats. 2015, Ch. 269, Sec. 31. Effective January 1, 2016.)

22040.

Any person may examine the plans, specifications, or working details, or all of these, adopted by the public agency for any project.
(Added by renumbering Section 21210 (as added by Stats. 1983, Ch. 1054) by Stats. 1986, Ch. 1019, Sec. 62.)

22041.

This article does not apply to the construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to those camps, ranches, or homes.
(Added by renumbering Section 21211 (as added by Stats. 1983, Ch. 1054) by Stats. 1986, Ch. 1019, Sec. 63.)

22042.

The commission shall review the accounting procedures of any participating public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories:
(a) Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency.
(b) Exceeded the force account limits.
(c) Has been improperly classified as maintenance.
(Added by renumbering Section 21212 (as added by Stats. 1983, Ch. 1054) by Stats. 1986, Ch. 1019, Sec. 64.)

22042.5.

The commission shall review practices of any participating public agency where an interested party presents evidence that the public agency is not in compliance with Section 22034.
(Added by Stats. 2015, Ch. 269, Sec. 32. Effective January 1, 2016.)

22043.

(a) In those circumstances set forth in subdivision (a) of Section 22042, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than eight business days from the date the public agency has rejected all bids.
(b) In those circumstances set forth in subdivision (b) or (c) of Section 22042, a request for commission review shall be by letter received by the commission not later than eight days from the date an interested party formally complains to the public agency.
(c) The commission review shall commence immediately and conclude within the following number of days from the receipt of the request for commission review:
(1) Forty-five days for a review that falls within subdivision (a) of Section 22042.
(2) Ninety days for a review that falls within subdivision (b) or (c) of Section 22042.
(d) During the review of a project that falls within subdivision (a) of Section 22042, the agency shall not proceed on the project until a final decision is received by the commission.
(e) A request for commission review pursuant to Section 22042.5 shall be in writing, sent by certified or registered mail, and received by the commission no later than eight days from the day an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 90 days from the receipt of the request for commission review.
(Amended by Stats. 2015, Ch. 269, Sec. 33. Effective January 1, 2016.)

22044.

The commission shall prepare written findings, which shall be presented to the public agency within 30 calendar days of formal commission review. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:
(a) On those projects set forth in subdivision (a) of Section 22042, the public agency has the option of either (1) abandoning the project, or (2) awarding the project to the lowest responsible bidder.
(b) On those projects set forth in subdivision (b) or (c) of Section 22042, the public agency shall present the commission's findings to its governing body within 30 calendar days of receipt of written notice of the findings and that governing body shall conduct a public hearing with regard to the commission's findings within 60 calendar days of receipt of the findings.
(c) (1) On findings of noncompliance pursuant to Section 22042.5, the public agency shall notify its governing body of the commission's findings within 60 calendar days of receipt of written notice of the findings from the commission.
(2) The public agency shall notify the commission in writing, within 90 days of receipt of written notice of the findings, of the public agency's best efforts to comply.
(Amended by Stats. 2015, Ch. 269, Sec. 34. Effective January 1, 2016.)

22044.5.

If the commission makes a finding, in accordance with Section 22043, on three separate occasions within a 10-year period, that the work undertaken by a public agency falls within any of the categories described in Section 22042, the commission shall notify the public agency of that finding in writing by certified mail and the public agency shall not use the bidding procedures provided by this article for five years from the date of the commission's findings.
(Added by Stats. 2006, Ch. 192, Sec. 1. Effective January 1, 2007.)

22045.

(a) No later than January 1, 1985, the commission shall recommend, for adoption by the Controller, written procedures implementing the accounting procedures review provided for in this article.

(b) The Controller shall, upon receipt of the commission's recommendation, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission of the commission.
(Added by renumbering Section 21215 by Stats. 1986, Ch. 1019, Sec. 67.)

State of California

PUBLIC CONTRACT CODE

Section 20101

20101. (a) Except as provided in Section 20111.5, a public entity subject to this part may require that each prospective bidder for a contract complete and submit to the entity a standardized questionnaire and financial statement in a form specified by the entity, including a complete statement of the prospective bidder's experience in performing public works. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if a violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations. The Department of Industrial Relations, in collaboration with affected agencies and interested parties, shall develop model guidelines for rating bidders, and draft the standardized questionnaire, that may be used by public entities for the purposes of this part. The Department of Industrial Relations, in developing the standardized questionnaire, shall consult with affected public agencies, cities and counties, the construction industry, the surety industry, and other interested parties. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of contractors applying for prequalification status shall be public records subject to disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(b) Any public entity requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine both the minimum requirements permitted for qualification to bid, and the type and size of the contracts upon which each bidder shall be deemed qualified to bid. The uniform system of rating prospective bidders shall be based on objective criteria.

(c) A public entity may establish a process for prequalifying prospective bidders pursuant to this section on a quarterly basis and a prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(d) Any public entity requiring prospective bidders on a public works project to prequalify pursuant to this section shall establish a process that will allow prospective bidders to dispute their proposed prequalification rating prior to the closing time for receipt of bids. The appeal process shall include the following:

(1) Upon request of the prospective bidder, the public entity shall provide notification to the prospective bidder in writing of the basis for the prospective bidder's disqualification and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity.

(2) The prospective bidder shall be given the opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified.

(3) If the prospective bidder chooses not to avail itself of this process, the proposed prequalification rating may be adopted without further proceedings.

(e) For the purposes of subdivision (a), a financial statement shall not be required from a contractor who has qualified as a Small Business Administration entity pursuant to paragraph (1) of subdivision (d) of Section 14837 of the Government Code, when the bid is no more than 25 percent of the qualifying amount provided in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

(f) Nothing in this section shall preclude an awarding agency from prequalifying or disqualifying a subcontractor. The disqualification of a subcontractor by an awarding agency does not disqualify an otherwise prequalified contractor.

(Added by Stats. 1999, Ch. 972, Sec. 4. Effective January 1, 2000.)

ARTICLE II. PUBLIC PROJECTS

SEC. 4-5. UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT.

The city council has elected to subject the city to the Uniform Public Construction Cost Accounting Act (Cal. Pub. Con. Code, Sections 22400 et seq.) in the performance of public projects. The procedures contained in this article are intended to implement and be consistent with such Act.

(`64 Code, Sec. 2-94) (Ord. No. 2332, 2520)

SEC. 4-6. DEFINITIONS.

For purposes of this article, the following words shall have the following meanings:

(A) PUBLIC PROJECT - Except for maintenance work, any of the following:

(1) Construction, reconstruction, erection, alteration, restoration, improvement, demolition and repair work involving any facility owned, leased or operated by the city.

(2) Painting or repainting any facility owned, leased or operated by the city.

(3) The construction, erection, improvement or repair of dams, reservoirs, powerplants and electrical transmission lines of 230,000 volts and higher that are part of a utility system owned by the city.

(B) MAINTENANCE WORK - "Maintenance work" means any of the following:

(1) Routine, recurring and usual work for the preservation or protection for its intended purposes of any facility owned or operated by the city.

(2) Minor repainting.

(3) Resurfacing at less than one inch deep of streets and highways.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate and maintain water, power or waste disposal systems owned by the city, including, but not limited to, dams, reservoirs, powerplants and electrical transmission lines of 230,000 volts and higher.

(C) FACILITY - Any of the following:

(1) Any plant, building, structure, ground facility, real property, street, highway or other public work improvement.

(2) Any utility system owned by the city, subject to the limitation found in subsection (A)(3) of this section.

(D) FORCE ACCOUNT - Work performed on public projects using internal city resources, including, but not limited to, labor, equipment, materials, supplies and subcontracts of the city.

(`64 Code, Sec. 2-95) (Ord. No. 2332, 2520)

SEC. 4-7. CONTRACTING PROCEDURES; DOLLAR AMOUNT LIMITATIONS.

(A) Public projects of $25,000 or less may be performed by force account, by negotiated contract, or by purchase order. The director of the department in charge of the project is authorized to determine how and by whom the project shall be performed and to execute any contract or purchase order for the project, and to execute any change order thereto if that change or[illegible]e amount of the original contract or purchase order and any previous change orders thereto, does not exceed $25,000. Any change order exceeding such total amount shall be submitted for approval by the city council. All contracts, purchase orders, terminations, amendments and change orders shall be in a form approved by the city attorney.

(B) Public projects from $25,000.01 to $100,000 shall be contracted for pursuant to the informal bidding procedures contained in section 4-9.

(C) Public projects of more than $100,000 shall be contracted for pursuant to the formal bidding procedures contained in section 4-10.

(D) No person shall split or separate any project into smaller work orders or projects for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

(`64 Code, Sec. 2-96) (Ord. No. 2332, 2520, 2533)

SEC. 4-8. LISTS OF CONTRACTORS AND TRADE JOURNALS.

(A) The purchasing agent shall develop and maintain a list of contractors, identified according to categories of work, in accordance with criteria determined by the California Uniform Construction Cost Accounting Commission.

(B) The purchasing agent shall maintain a list of the construction trade journals, as determined for the county by the California Uniform Construction Cost Accounting Commission, that are to receive mailed notice of all informal and formal construction contracts being bid for work within the county.

(`64 Code, Sec. 2-97) (Ord. No. 2332, 2520)

SEC. 4-9. INFORMAL BIDDING PROCEDURES.

(A) When the city intends to contract for a public project from $25,000.01 to $125,000, or such informal bid limit amount as may from time to time be set forth in the California Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall mail a notice inviting informal bids to all contractors on the list for the category of work being bid, to all construction trade journals on the list, and to such other contractors and trade journals as may be requested by the city staff in charge of the project. However, if a project or service essential to the project is proprietary and can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent only to such contractor or contractors.

(B) All mailing of notices inviting informal bids shall be completed not less than ten calendar days before bids are due.

(C) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for the submittal of bids.

(D) The city council shall award the contract to the lowest responsible and responsive bidder and the purchasing agent may execute the contract.

(E) The purchasing agent and the director of the department in charge of the project are each authorized to reject or to execute any change order to such a contract if the total contract amount after the change order does not exceed $25,000. Any change orders causing a contract to exceed such amount shall be submitted for approval by the city council. A contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item and increasing time, material and equipment devoted to another aspect or contract line item in an amount greater than $25,000 shall be submitted for approval to the city council. If the city council is not in session or if there exists in the view of the city manager an immediate need to do so, a change order in an amount greater than $25,000 may be approved jointly by the city manager and the most senior available member of the city council. The city manager shall place the jointly executed change order on the agenda for ratification at the next regular city council meeting occurring more than five days after execution. All change orders that are jointly approved shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(F) If all bids received are in excess of $125,000 or such informal bid limit amount as may from time to time be set forth in the California Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the city council may, by adoption of a resolution by a four-fifths vote, award the contract for an amount up to 10% greater than such sum to the lowest responsible bidder, if the city council determines that the city's cost estimate was reasonable.

(G) If no bids are received, the project may be performed by negotiated contract approved by the city council and executed by the purchasing agent or by city employees by force account. "No bids" means that no bids at all were received or that no bids that conform to the city's specifications were received or that no bids that conform to the city's specifications were submitted by a responsible bidder.

(H) All contracts and change orders governed by this article shall be in a form approved by the city attorney.

(`64 Code, Sec. 2-98) (Ord. No. 2332, 2520, 2533, 2584, 2835)

SEC. 4-10. FORMAL BIDDING PROCEDURES.

(A) The city council shall adopt plans, specifications and working details for all public projects of more than $125,000 or such other informal bid limit amount as may from time to time be provided in the Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein.

(B) When the city is to contract for a public project of more than $125,000 or such informal bid limit amount as may from time to time be set forth in the California Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall prepare a notice inviting formal bids, which shall distinctly describe the project and state the time and place for receiving and opening sealed bids.

(C) At least 14 days before the date of opening the bids, the purchasing agent shall publish the notice in a newspaper of general circulation, printed and published in the city. At least 30 days before the date of opening the bids, the purchasing agent shall mail the notice to all construction trade journals on the list referred to in subsection (B) of section 4-8. The purchasing agent may also give such other notice as the purchasing agent deems proper.

(D) The purchasing agent may reject any bids received. If, after the first invitation for bids, all bids are rejected, the purchasing agent may, after reevaluating the cost estimates for the project:

(1) Abandon the project;

(2) Readvertise for bids; or

(3) Request that the city council adopt a resolution by a four-fifths vote, declaring that the project can be performed more economically by city employees. If such a resolution is adopted, the purchasing agent may have the project completed by force account.

(E) The city council shall award any contract to the lowest responsible and responsive bidder and the purchasing agent is authorized to execute such contract.

(F) If no bids are received, the project may be performed by negotiated contract approved by the city council or by city employees by force account. "No bids" means that no bids at all were received or that no bids that conform to the city's specifications were received or that no bids that conform to the city's specifications were submitted by a responsible bidder.

(G) The purchasing agent is authorized to execute any change order to a contract awarded pursuant to subsections (E) or (F) of this section; provided, however, that the purchasing agent shall submit to the city council for approval any change order exceeding $25,000. In addition, a contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item and increase time, in material or equipment devoted to another aspect or contract line item, whether or not deemed a change order, shall, if greater than $25,000, be submitted for approval to the city council. If the city council is not in session or if there exists in the view of the city manager an immediate need to do so, a change order in an amount greater than $25,000 may be approved jointly by the city manager and the most senior available member of the city council. The city manager shall place a jointly approved change order on the agenda for ratification at the next regular city council meeting occurring more than five days after execution. All change orders that are jointly executed shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(H) In the event of an emergency or if exigent circumstances exist or in the view of the project manager delay would result in a significant cost to the city, the project manager may direct work to the extent necessary to address the emergency or exigent circumstance or avoid the cost to the city. The project manager shall at the earliest opportunity notify the city manager who shall then contact the senior member of the city council and follow the procedure set forth in subsection (G).

(`64 Code, Sec. 2-99) (Ord. No. 2332, 2520, 2533, 2584, 2835)

SEC. 4-11. BID BONDS.

All sealed bids submitted pursuant to section 4-10 must be accompanied by a bid security in an amount equal to at least 10% of the amount bid. A bid shall not be considered unless one of the forms of bid security specified in the Cal. Pub. Con. Code, Section 20170 is enclosed with the bid. If the successful bidder fails to execute the contract, the amount of the bidder's security shall be forfeited to the city, except as provided in the Cal. Pub. Con. Code, Sections 20173 and 20174.

(`64 Code, Sec. 2-99.1) (Ord. No. 2332, 2520)

SEC. 4-12. PERFORMANCE AND PAYMENT BONDS.

In awarding a contract pursuant to section 4-9 or section 4-10, the purchasing agent shall require a faithful performance bond in an amount equal to 100% of the contract price and a payment bond in the amount required by the Cal. Code of Civil Procedure, Section 3248. Such bonds shall be issued by an admitted surety insurer and be in the form of a bond, not a deposit in lieu of a bond.

(`64 Code, Sec. 2-99.2) (Ord. No. 2332, 2520)

SEC. 4-13. EMERGENCIES.

(A) In cases of emergency, including, but not limited to, states of emergency defined in the Cal. Gov't Code, Section 8558, when repair or replacements to public facilities are necessary, the city council may proceed at once to replace or repair any public facility without adopting plans, specifications or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the city council, by a contractor, or by a combination of the two. The Cal. Gov't Code, Section 22050 shall apply when notice for bids to let contracts is not given.

(B) The city council delegates to the city manager the authority to order any action pursuant to paragraph (1) of subdivision (a) of the Cal. Gov't Code, Section 22050.

(`64 Code, Sec. 2-99.3) (Ord. No. 2332, 2520)

SEC. 4-14. PREQUALIFICATION OF BIDDERS.

(A) Prequalification of bidders.

(1) The purchasing agent may require that contractors desiring to bid on a particular public project be prequalified in respect to experience, specialized skills, quality of work, bonding capacity and having sufficient equipment, resources and personnel.

(2) The purchasing agent shall prepare a notice inviting formal bids, which shall distinctly describe the project, expressly state the prequalification requirement including the standards of responsibility, where the prequalification application is available, the date, place and time to submit the application, and the date, place and time for receiving and opening sealed bids. The notice shall state that, if an appeal is filed from a prequalification decision, bids will remain sealed until final city action is taken on the appeal.

(3) At least 60 calendar days before the date of opening the bids, the purchasing agent shall publish the notice in a newspaper of general circulation, printed and published in the city, and mail notices to all construction trade journals on the list referred to in section 4-8. The purchasing agent may also give such other notice as the purchasing agent deems proper.

(B) Application for prequalification.

(1) If the purchasing agent requires prequalification of bidders, a contractor desiring to bid on the public project must submit a properly completed application and be determined to be qualified before that contractor's bid is considered.

(2) The purchasing agent may also require one of the following after accepting a prime contractor's bid:

(a) Prequalification of all subcontractors.

(b) Prequalification of subcontractors in certain crafts.

(c) Post-bid qualification review of subcontractors.

(3) Application signatures must be original and signed in ink under penalty of perjury in the manner designated on the application form by an individual who has the legal authority to bind the contractor (an individual that is listed in the Contractors State Board's records). If any information provided by a contractor becomes inaccurate, the contractor shall immediately notify the purchasing agent and provide updated accurate information in writing, under penalty of perjury.

(4) If two or more business entities submit a bid as part of a joint venture, each entity comprising the joint venture shall submit an application for prequalification.

(5) Contractors shall submit a prequalification application to the purchasing agent on a form prescribed by the city, and honestly, accurately and completely supply all information requested in the application.

(6) Contractors shall submit the application at the place and time specified in the advertisement for bids. An application will not be considered received until the application is properly completed and includes all required supporting data.

(C) Prequalification determination.

(1) The purchasing agent shall create a standing committee, to be known as the prequalification committee ("the committee"), with primary responsibility and authority to carry out the prequalification procedure.

(2) Within ten business days after receipt of a prequalification application, the committee shall review all information provided in the application. The committee may contact any person or entity necessary to verify and/or supplement any of the information requested or provided in the application and may review information from published sources of industry information.

(3) Whenever the committee determines that the nature or extent of the information provided in the application is insufficient or indicates that the contractor is not qualified, the committee shall, within ten business days of receipt of the application, contact the contractor to seek additional information and, if desired by the contractor, to schedule an interview to discuss the specific reasons that have caused that preliminary determination. The contractor shall submit all additional information requested by the committee.

(4) The committee shall evaluate as a whole all the information provided or obtained and determine on a pass-fail basis whether the contractor is responsible and qualified. In doing so, the committee will use the following descriptive categories:

(a) Qualified: With respect to the project under consideration, the information demonstrates that the contractor is likely to build an acceptable project in a timely manner using acceptable processes.

(b) Not Qualified: With respect to the project under consideration, the information demonstrates that the contractor is not likely to build an acceptable project in a timely manner using acceptable processes.

(5) Notwithstanding the foregoing subsection, if the committee finds, based on substantial evidence, that any of the following conditions exist as to a contractor, such finding shall be sufficient grounds for an overall determination of "Not Qualified":

(a) Unsatisfactory and/or insufficient experience;

(b) Insufficient bonding capacity;

(c) Insufficient equipment or insufficient personnel with applicable knowledge and experience;

(d) Safety record significantly below industry standards;

(e) Environmental record significantly below industry standards;

(f) Denial of prequalification, finding of non-responsibility, debarment, or other substantial irregularities determined by any federal, State, or local government or procurement agency;

(g) Pattern of unsupported claims;

(h) Conviction in a civil suit or judgment of guilty in a criminal action for making false claims to any public agency;

(i) Deceptive, evasive or fraudulent statement or omission in the application or application process; or

(j) Other substantial deficiencies that are clearly below industry standards and that clearly demonstrate that the contractor is not qualified.

(6) If the contractor submits a timely and conforming application, the purchasing agent shall mail to the contractor a notice of prequalification within five business days before bids are scheduled for opening. The notice shall identify the proje[illegible] or not the contractor is qualified. The notice shall also set forth the specific reasons for a determination that the c[illegible]

qualified. The purchasing agent shall deposit the notice in the United States mail, postage prepaid, addressed to the contractor at the address stated in the application.

(7) Bids shall not be opened until all contractors that submitted timely and conforming applications are so notified and the time to file notices of appeal has expired and the final city action has been taken as to all appeals that were filed.

(8) When bids are opened, only the bids of contractors that were determined to be qualified shall be considered.

(D) Appeal.

(1) A contractor determined to be not qualified may appeal the decision of the committee by delivering a written notice of the appeal to the city manager on or before 5:00 P.M. on the fifth business day after the date that the notice of prequalification was mailed to the contractor. At a minimum, the notice of appeal shall state:

(a) The specific errors that the contractor alleges were made by the city regarding prequalification;

(b) The specific relief sought;

(c) A request to submit additional written materials (if desired);

(d) A request for hearing (if desired), accompanied by the appeal fee set by resolution of the city council; and

(e) Designation of counsel or any other person (if any) who will represent the contractor in the appeal.

(2) Within ten business days of filing the notice of appeal, the contractor and the committee shall deliver to the city manager or his/her designee ("the manager"), and to each other, all written materials that each party contends are necessary for the manager to fairly and objectively evaluate and decide appeal.

(3) If requested by the contractor, a hearing will be conducted within ten business days of the filing of additional written materials by the contractor and/or the committee, whichever occurs later, at a time and place determined by the manager. The manager shall give the parties at least 72 hours advance written notice of the hearing.

(4) The hearing shall be open to the public. The contractor shall first present evidence. Thereafter, the committee may present evidence. The manager shall conduct the hearing in an informal fashion and shall not be bound by the technical rules of evidence.

(5) The manager may leave the record of the appeal open for the submission of further evidence or arguments for up to ten business days after the conclusion of the hearing, or to another date agreed to by the parties. If no hearing was requested, the manager may request the parties to file additional written materials. The record of the appeal shall close on the date of filing of additional materials by the contractor and the committee, whichever occurs later.

(6) Unless the manager reasonably determines that special circumstances require delay of the decision, the manager shall, within ten business days of the closing of the record:

(a) In writing, affirm, revise, modify, or reverse the previous determination regarding prequalification, making findings supported by substantial evidence that explain the decision; or

(b) Make no written decision, which shall be considered a decision affirming such determination.

(7) On the day the decision is issued, the manager shall provide the decision to the committee and shall deposit the decision in the United States mail, postage prepaid, addressed to the contractor at the address stated in the application.

(8) The manager's written decision shall be final city action. If the manager makes no written decision, the previous determination regarding prequalification shall be final city action as of the expiration of the time for the manager's decision.

(9) Judicial review of the manager's decision may be sought in accordance with the Cal. Code of Civil Procedure, Sections 1094.5 and 1094.6. A request for judicial review shall be made in the Superior Court of Ventura County.

(Ord. No. 2627)

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Report** **AGENDA ITEM NO.: 2**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

FROM: Kymberly Horner
Economic Development Director

SUBJECT: Downtown Lighting and Tree Trimming (10/20/20)

CONTACT: Kymberly Horner, Economic Development Director
Kymberly.Horner@oxnard.org, 385-7407

RECOMMENDATION:

That City Council:
1. Appropriate $145,575 from the Downtown Improvement Program Settlement Funds ("DIPSF") to initiate two Downtown Capital Improvement Projects identified within the Downtown Vision Plan, which will include lighting for Plaza Park and tree trimming within the Central Business District; and
2. Approve the carryover of unused funds of $97,758 from the General Fund Capital Outlay for Downtown tree trimming within the Central Business District in support of the Downtown Vision Plan.

BACKGROUND

In January 2016, the Congress for New Urbanism ("CNU") was commissioned by the City of Oxnard ("City") to revisit and integrate earlier downtown Oxnard ("Downtown") planning and policy documents into an overarching "vision" for Downtown. The results are expressed in a "Downtown Vision Plan" ("DVP") that was presented to City Council on October 18, 2016. The purpose of the design charrette was to help articulate an all-inclusive vision for Downtown and to provide guidance for allocating a portion of the DIPSF.

On December 19, 2016, City staff ("Staff") presented the "Three-Year Implementation Plan." The Implementation Plan has three components: (i) Regulatory Retooling (Land Use and Design Review, Parking Management), (ii) Public Reinvestment (Capital Improvements, Business Inducement Programs, Arts Hub, and Property Disposition), and (iii) Program Administration (Project Management, Regulatory Documents, Tourism, Public Infrastructure, Stakeholder Involvement, Special Events, City Council Follow-up, and Homelessness Strategies). The Regulatory Retooling and Public Reinvestment components of the Implementation Plan present a phased implementation strategy, whereas Program Administration is ongoing.

At the January 31, 2017, City Council meeting, Staff presented a total of 14 projects, collectively known as "Downtown Capital Improvement Projects" for consideration and prioritization by Council. These included:

1. Downtown Trash Enclosures
2. Downtown Lighting
3. Façade Improvements
4. Public Restrooms
5. Downtown Tree Trimming
6. Downtown Design Guidelines
7. Revolving Loan Program
8. Parking Management Plan
9. Arts Hub
10. "A" Street Enhanced Landscaping
11. "A" Street Improvements
12. Project Manager
13. Tourism
14. Land Use Policies

Since that meeting, City Council has approved a Downtown Revitalization Manager position and funding for consultant services to assist Development Services with the development of the design guidelines, a parking management plan, and land use guidelines to support new development in the Downtown area.

Economic Development Department Projects:

To further carry out the City Council's goals and objectives related to the revitalization of Downtown, Staff has prepared a scope and schedules for the reinstallation of lights at Plaza Park and tree trimming in the Downtown Core Area. The City Public Works Department will provide oversight of these two projects.

Plaza Park Lighting Project - $47,818

Downtown lighting improvements are consistent with the goals of the DVP to promote and enhance the economic vitality of Downtown. The Economic Development Department's plans for improving the Downtown's infrastructure include the replacement of approximately 22 underground lamp canisters at Plaza Park.

Previous lighting projects have made a significant improvement to Downtown lighting while also enhancing the public's perception of security. In the early 2000's, the former Community Development Commission approved a Downtown Lighting Project. The proposed Plaza Park Lighting Project is a continuation of that effort. The first phase of the lighting improvements was funded with tax revenue bond funds and was completed in 2004. Phase II of the project was completed in 2008, in the Meta Street area (between Fifth Street, Wooley Road, Oxnard Boulevard, and the railroad crossing, east of Meta Street) of Downtown that was being redeveloped for medium-density housing and neighborhood commercial services.

The proposed Plaza Park Lighting Project in Downtown will focus on up lighting the Canary Island palm trees at Plaza Park in an effort to brighten up the park and provide a more ambient feel to make people comfortable and increase the time visitors enjoy the Downtown Core Area after dark. The lights will illuminate the park, provide aesthetic enhancements, and encourage residents and visitors to use the area and patronize Downtown businesses. The proposed Plaza Park lights are LED and will bring better light, better coverage, and will last longer than the current lighting fixtures at the park. This project is scheduled to be undertaken in summer 2017.

OBJECTIVE	SCOPE	SCHEDULE	BUDGET
Downtown Lighting Project	1) Update original quote for light canisters from 2016.	Spring 2017	$24,848
Install approximately 22 lamp canisters throughout Plaza park.	2) Installation.	Summer 2017	$15,000
	3) Contingency-Unforeseen Conditions, Permits, Fees, Inspections.	Summer 2017	$7,970
	4) Consult with Public Works and Facilities Staff on installation of the lights.	Summer 2017	
	5) Review electrical capacity feed from the Pagoda.	Summer 2017	
	Total		**$47,818**

<u>Tree Trimming</u> – $195,515

Tree Trimming Central Business District ("CBD"): Trees beautify the City, provide environmental benefits to the community, and enhance the quality of life for all residents. Tree trimming and pruning clears the public right-of-way by removing lower limbs and other growth to provide adequate clearance for vehicles, cyclists, pedestrians, construction activities and to extend the life of the trees.

The estimated cost to address the trees throughout the entire CBD is approximately $195,515, which includes all areas within the CBD boundaries. Trees within the CBD, which is defined as Second Street to Wooley Road, and from D Street to east of Meta Street, will be lace-thinned trimmed in consultation with the City's arborist and/or landscape architect. The tree trimming contractor and the City arborist will coordinate and agree how the trees will be trimmed.

The tree trimming within the Oxnard Downtown Improvement District ("ODID") is approximately $160,210, which includes the cost of the Core Area. The boundaries within the ODID area are Second Street to Eighth Street, and D Street to east of Meta Street.

The Downtown Core Area tree trimming cost is estimated at $45,750 for the area within the boundaries of Sixth Street and Third Street, C Street and east of Oxnard Boulevard. The Core Area is located within the ODID limits.

Staff is recommending that the tree trimming occur within the entire CBD at an estimated cost of $195,515, with the project beginning in the summer of 2017. Staff is aware of the nesting issues and will coordinate the work to avoid the nesting period.

Should the City Council decide to complete the project in phases, the scope, schedule and budget are listed in the table below.

OBJECTIVE	SCOPE	SCHEDULE	BUDGET
Downtown Tree Trimming Project	**Tree Trimming:** Within the identified areas will include permits, traffic control, and specialized equipment.		
1. Downtown Core Area		Summer 2017	$45,750
2. ODID, including Core Area (Staff Recommended)		Summer 2017	$160,210
3. CBD, including ODID and Core Area	**Total**	Summer 2017	**$195,515**

STRATEGIC PRIORITIES

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to develop and enhance the City'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 will directly enable completion of the following goals and objectives:

Goal 5. Revitalize Downtown Oxnard and pursue economic development opportunities.

Objective 5.a. Develop a vision and plan (with timelines) for Downtown revitalization to create a vibrant center for our community, emphasizing cultural arts, diversity and historic assets.

FINANCIAL IMPACT

The budget appropriation request for the proposed Downtown Plaza Park Lighting Project totals $47,818. The DIPSF will be used to pay for this lighting project. The cost of the entire CBD Tree Trimming Project is $195,515. The DIPSF will be used to pay $97,757 for a portion of the proposed Tree Trimming Project. The General Fund will be used to pay for the remaining tree trimming in the amount of $97,758, if the larger area is approved as a part of the Tree Trimming Project.

The Undesignated Fund Balance of DIPSF Fund 481 is approximately $6,116,067.

DISPF	2016 - 2017	Project	Approval Date
Beginning Balance	$6,116,067		
Authorized Expenditures	($41,000)	Downtown Project Manager	January 31, 2017
Authorized Encumbrances	($130,000)	Development Services Regulatory Documents	April 4, 2017
Ending Balance To Date	$5,945,067		

Proposed Expenditures	$47,818 $97,757 ($145,575)	Plaza Park Lights Tree Trimming	June 6, 2017
Proposed Ending Balance	**$5,799,492**		

On February 28, 2017, Council authorized $41,000 from DIPSF Fund Balance for funding a new position of Downtown Revitalization Manager. An additional appropriation of $130,000, from the DIPSF was approved by City Council on April 4, 2017, to update the Downtown Parking Management Plan and the Downtown Land Use Policies and Design Guidelines. The ending balance to date is approximately $5,945,067. If City Council choses to approve the proposed two projects using DIPSF as a funding source, the new account balance would be approximately $5,799,492.

ATTACHMENTS:

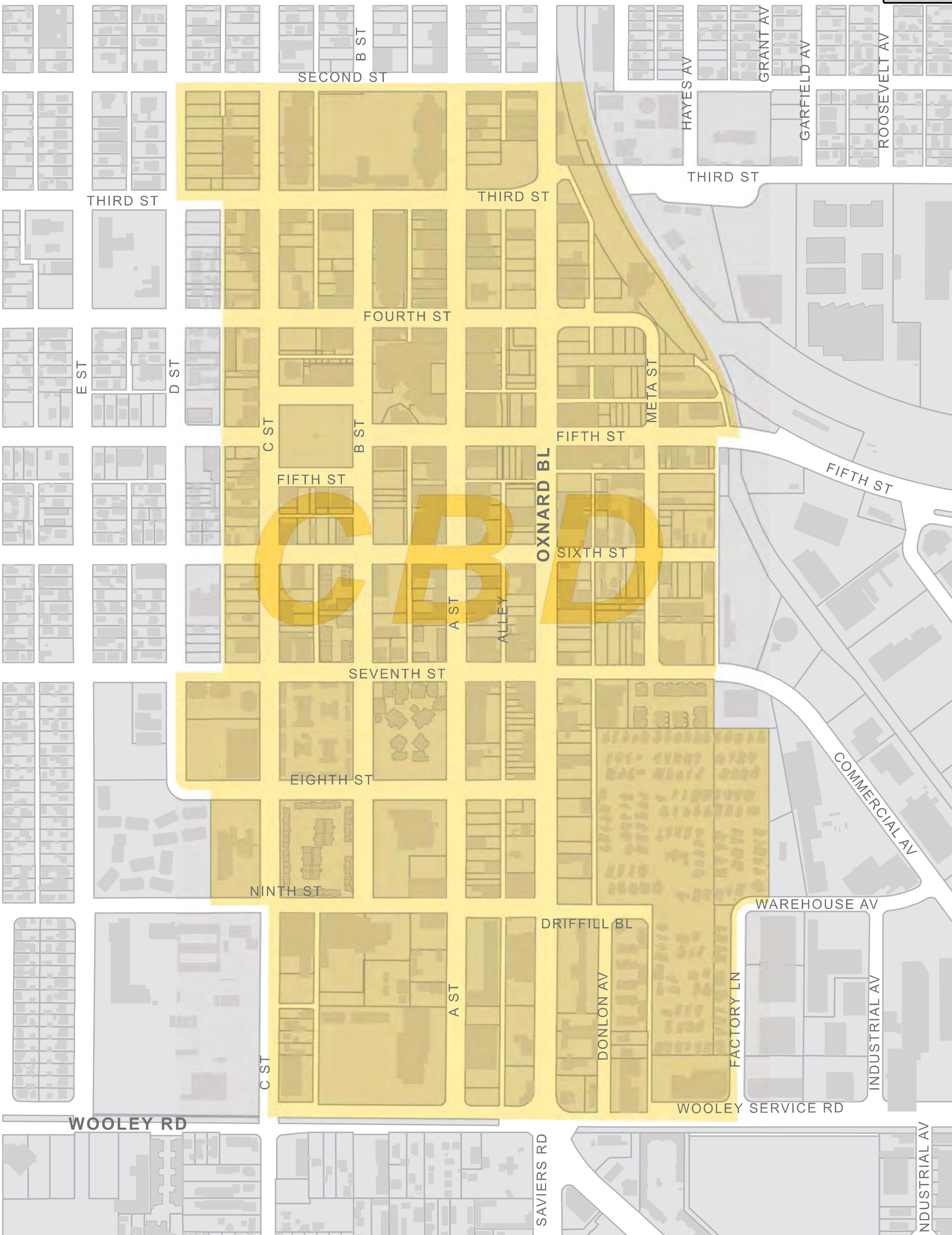
Attachment #1 - Map CBD Downtown

Attachment #2 - Map ODID

Attachment #3 - Map CORE

Attachment #4 - Map all Downtown Areas

Attachment 5 - BA Downtown Capital Projects - Trees & Lighting



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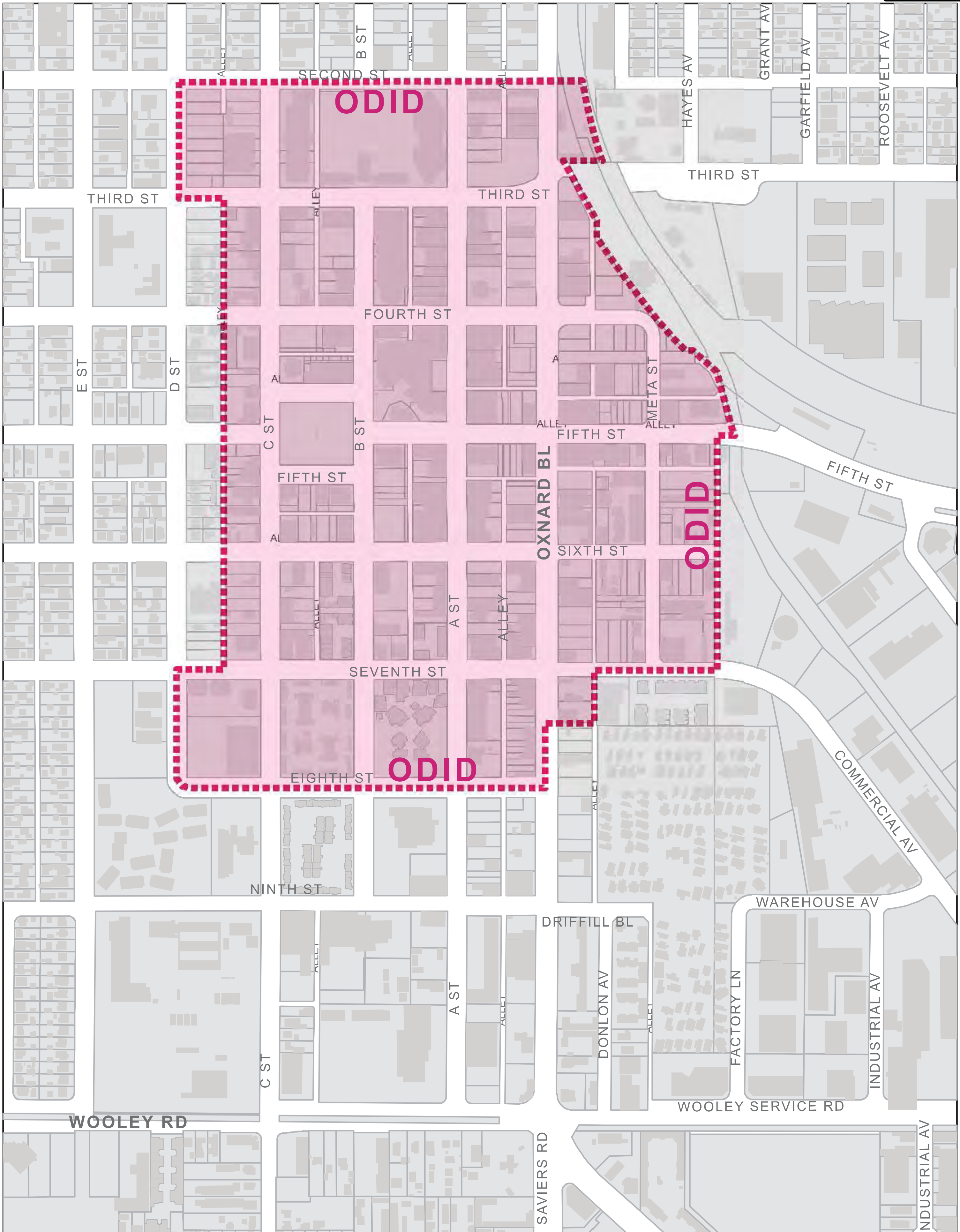
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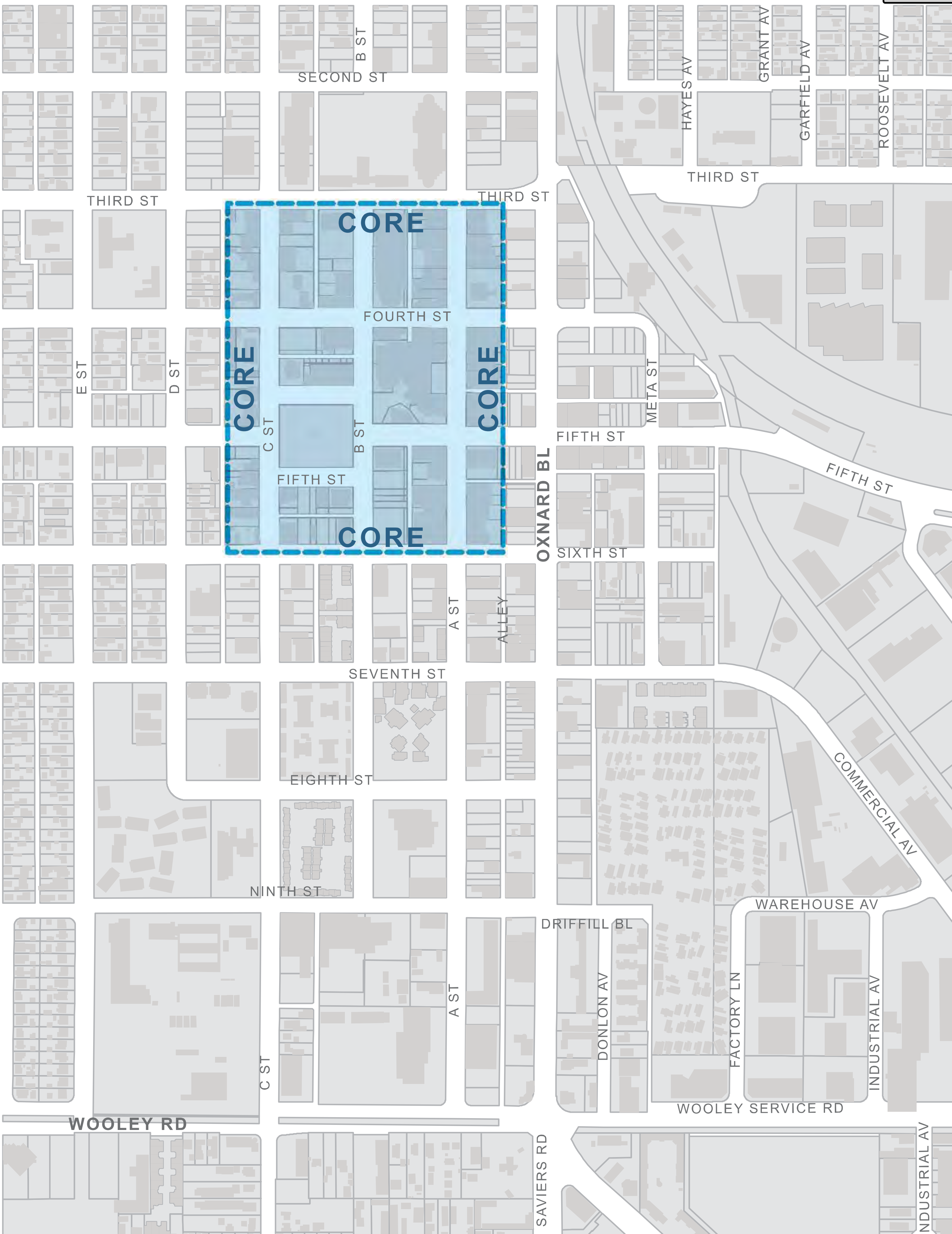
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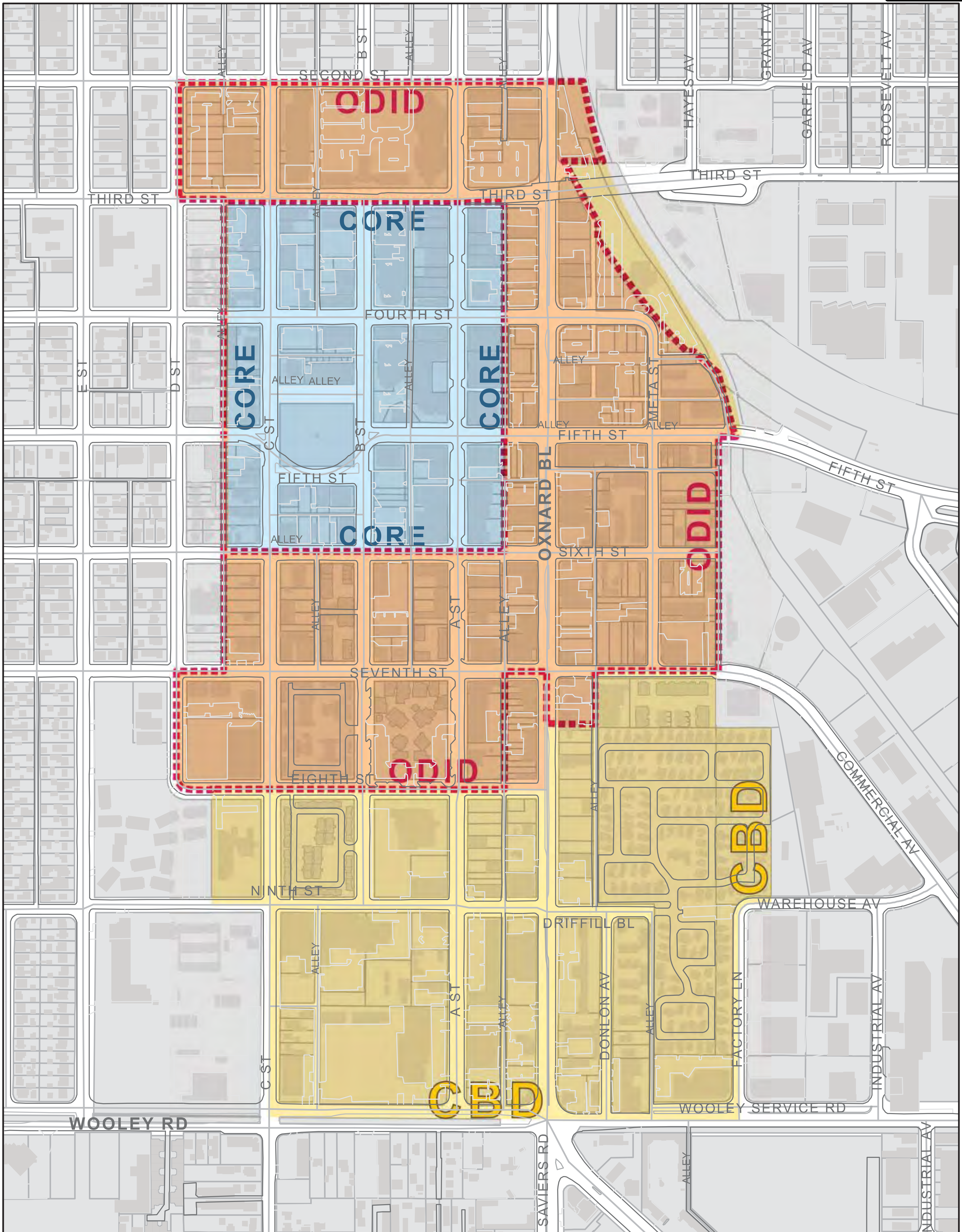
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REQUEST FOR BUDGET APPROPRIATION

Department: Economic Development **Date:** June 27, 2017
Project/Program Manager: Kym Horner **Phone:** 385-7853

Reason for Appropriation:

1) To appropriate & transfer personnel savings from General Fund Tree Trimming to the Downtown Tree Trimming Project (17IN06) &2) To appropriate Downtown Settlement Funds to the Downtown Tree Trimming Project (17IN06) and Plaza Park Lighting Project (17IN05) as part of the Downtown Vision Plan.

Fund: General Fund (101)

Expenditures/Transfers Out

Maintenance Services Dept		
101-5705-805.80-01	PERSONNEL SERVICES / DIRECT LABOR REGULAR	(48,879)
101-5705-805.80-02	PERSONNEL SERVICES / DIRECT LABOR-TEMPORARY	(48,879)
Non-Departmental		
101-1002-808-8712	TRANSFERS - OUT / TSFR TO CAPITAL OUTLAY FD	97,758
	Sub-total Expenditures	0
	Net Change to Fund Balance	**0**

Fund: CAPITAL OUTLAY FUND (301)

Revenues/Transfer In

DOWNTOWN TREE TRIMMING (Project 17IN06)		
301-8221-711-7901	OPERATING TRANSFERS IN / TRANSFERS FR.GENERAL FUN	97,758
	Sub-total Revenues	97,758
DOWNTOWN TREE TRIMMING (Project 17IN06)		
301-8221-801-8209	CONTRACTS AND SERVICES / SVCS-OTHER PROF/CONTRAC	97,758
	Sub-total Expenditures	97,758
	Net Change to Fund Balance	**0**

Fund: CITY-DOWNTOWN IMPROVEMENT (481

DOWNTOWN TREE TRIMMING (Project 17IN06)		
481-8810-804-8209	CONTRACTS AND SERVICES / SVCS-OTHER PROF/CONTRAC	97,757
DOWNTOWN PLAZA PARK LIGHTING (Project 17IN05)		
481-8810-804-8209	CONTRACTS AND SERVICES / SVCS-OTHER PROF/CONTRAC	47,818
	Sub-total Expenditures	145,575
	Net Change to Fund Balance	**(145,575)**
	Net Appropriation Change	**243,333**

Approvals

Department Director Kymbly Horner 6-21-2017

Chief Financial Officer Diane Purcell 6-21-17

City Manager ____________________

BA# (Finance Use Only)____________

BA Doc# (Finance Use Only)____________

REQUIRES CITY COUNCIL AUTHORIZATION

Revised

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Report** **AGENDA ITEM NO.: 3**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager
Greg Nyhoff

FROM: Kymberly Horner
Economic Development Director
Kymberly Horner

SUBJECT: Downtown Public Restrooms (10/20/20)

CONTACT: Kymberly Horner, Economic Development Director
Kymberly.Horner@oxnard.org, 385-7407

RECOMMENDATION:

That City Council approve the appropriation of $145,322 from the Downtown Improvement Program Settlement Funds ("DIPSF") to install public restrooms within the Central Business District.

BACKGROUND

In January 2016, the Congress for New Urbanism ("CNU") was commissioned by the City of Oxnard ("City") to revisit and integrate earlier downtown Oxnard ("Downtown") planning and policy documents into an overarching "vision" for Downtown. The results are expressed in a "Downtown Vision Plan" ("DVP") that was presented to City Council on October 18, 2016. The purpose of the design charrette was to help articulate an all-inclusive vision for the Downtown core area and to provide guidance for allocating a portion of the DIPSF.

On December 19, 2016, City staff ("Staff") presented the "Three-Year Implementation Plan." The Implementation Plan has three components: (i) Regulatory Retooling (Land Use and Design Review, Parking Management), (ii) Public Reinvestment (Capital Improvements, Business Inducement Programs, Arts Hub, and Property Disposition), and (iii) Program Administration (Project Management, Regulatory Documents, Tourism, Public Infrastructure, Stakeholder Involvement, Special Events, City Council Follow-up, and Homelessness Strategies). The

Regulatory Retooling and Public Reinvestment components of the Implementation Plan present a phased implementation strategy, whereas Program Administration is ongoing.

At the January 31, 2017, City Council meeting, Staff presented a total of 14 projects, collectively known as "Downtown Capital Improvement Projects" for consideration and prioritization by Council. These included:

1. Downtown Trash Enclosures
2. Downtown Lighting
3. Façade Improvements
4. Public Restrooms
5. Downtown Tree Trimming
6. Downtown Design Guidelines
7. Revolving Loan Program
8. Parking Management Plan
9. Arts Hub
10. "A" Street Enhanced Landscaping
11. "A" Street Improvements
12. Project Manager
13. Tourism
14. Land Use Policies

Since that meeting, City Council has approved a Downtown Revitalization Manager position and funding for consultant services to assist Development Services with the development of the design guidelines, a parking management plan, and land use guidelines to support new development in the downtown area.

Economic Development Department Projects:

To further carry out the City Council's goals and objectives related to the revitalization of Downtown, staff has prepared a scope and schedule for the installation of public restrooms in the Downtown Core Area. The City Public Works Department will provide oversight of this project.

Downtown Restrooms Project - $145,322

On January 31, 2017, staff presented the Downtown Capital Projects with an initial allocation of settlement funds and other sources to implement projects. One of the items is the Public Restrooms project which will strategically place temporary/portable restrooms in several areas in the downtown area. Staff will work with the Development Services Department to locate temporary bathrooms and secure necessary permits.

Downtown restrooms are consistent with the goals of the DVP to promote and enhance the economic vitality of Downtown. The City's plans to place 1-2 temporary restrooms in the Downtown Core Area.

Staff is recommending a contract for the mobile restrooms beginning July 2017. Staff is aware of the necessity of this public service in the Downtown Area in order to aid and attract the public to visit businesses. Possible locations have been identified within the center of the Downtown Area.

Two public restrooms are planned, one will be strictly designated for women and the second for universal use. Both will be compliant with the Americans Disability Act (ADA). The restrooms require electrical and a water connection. These requirements will be taken into consideration when final selection of locations are made. The restrooms also have the capability of being relocated to a different location if the selected location becomes a nuisance or the public requests a more suitable location.

OBJECTIVE	SCOPE	SCHEDULE	BUDGET
2 ADA Restrooms	VIP Movable Restroom ($62,361/Each Unit)	Summer 2017	$124,722
	1) Janitorial Service, water and electricity fees, & permit(s)		$20,600
	Total		$145,322

STRATEGIC PRIORITIES

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to develop and enhance the City'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 will directly enable completion of the following goals and objectives:

Goal 5. Revitalize Downtown Oxnard and pursue economic development opportunities.

Objective 5.a. Develop a vision and plan (with timelines) for Downtown revitalization to create a vibrant center for our community, emphasizing cultural arts, diversity and historic assets.

FINANCIAL IMPACT

The budget request for the proposed Downtown Public Restrooms Project totals $145,322. Staff is requesting the City Council's approval to complete the Downtown Public Restrooms Project. Funding will come from the DIPSF Fund 481.

DISPF	2016 - 2017	Project	Approval Date
Beginning Balance	$6,116,067		
Authorized Expenditures	($41,000)	Downtown Project Manager	January 31, 2017
Authorized Encumbrances	($130,000)	Development Services Regulatory Documents	April 4, 2017
Proposed Expenditures	($145, 322)	Portable Restrooms	June 27, 2017
TOTAL	**$5,799,745**		

On February 28, 2017, Council authorized $41,000 from DIPSF Fund Balance for funding a new position of Downtown Revitalization Manager. An additional appropriation of $130,000, from the DIPSF was approved by City Council on April 4, 2017, to update the Downtown Parking Management Plan and the Downtown Land Use Policies and Design Guidelines. The ending balance to date is approximately $5,945,067. With approval of this expenditure the DIPSF balance will be $5,799,745.

ATTACHMENTS:

Attachment A: Budget Appropriation for Public Restrooms

REQUEST FOR BUDGET APPROPRIATION

Department: Economic Development **Date:** June 27, 2017

Project/Program Manager: Kym Horner **Phone:** 385-7853

Reason for Appropriation:

To appropriate Downtown Settlement Funds for Public Restrooms per. Downtown Vision Plan Three Implementation Plan.

Fund: CITY-DOWNTOWN IMPROVEMENT (481)

DOWNTOWN PUBLIC RESTROOM (Project 17IN07)

481-8810-804-8209	CONTRACTS AND SERVICES / SVCS-OTHER PROF/CONTRA(	145,322
	Sub-total Expenditures	145,322
	Net Change to Fund Balance	**(145,322)**
	Net Appropriation Change	**145,322**

Approvals

Department Director	Kymberly Horner	6-21-2017
Chief Financial Officer	Deanna Purcell	6-21-17
City Manager		

REQUIRES CITY COUNCIL AUTHORIZATION

BA# (Finance Use Only)________

BA Doc# (Finance Use Only)________

Revised

CITY OF OXNARD CALIFORNIA	CITY COUNCIL AGENDA REPORT	TYPE OF ITEM: Report AGENDA ITEM NO.: 4

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

Greg Nyhoff

FROM: Daniel Rydberg
Public Works Director

Daniel Rydberg

SUBJECT: Agreement A-7955 for On-Call Sidewalk, Curb and Gutter and Spandrel Grinding Services (5/10/10)

CONTACT: Daniel Rydberg, Public Works Director
Daniel.Rydberg@oxnard.org, 385-8055

RECOMMENDATION:

That City Council approve a one-year agreement with BPR, Inc. (A-7955) for an amount that is not to exceed $250,000 for sidewalk, curb, gutter and spandrel grinding and authorize the Mayor to execute the contract upon receipt of final documents.

BACKGROUND

The City of Oxnard has approximately 650 miles of sidewalk. These sidewalks are challenged by many situations that cause varying degrees of displacements. The Streets Division currently has 402 outstanding requests for sidewalk maintenance. These requests only reflect the reported areas of concern (which have not been verified) and not all sidewalk displacements in various locations throughout the City.

Sidewalk grinding is the maintenance industry's first response to displaced sidewalks. Agencies such as the City of Ventura grind sidewalks as a regular cost-effective maintenance activity. Displacements between 1/4 inch and up to 1 1/2 inches can be ground. Approximately 80 percent of all of the City's sidewalk displacements fall in that range.

This is a piggyback agreement onto an Orange County, California agreement. "Piggybacking" is a process by which the City utilizes an existing contract between another governmental agency and a vendor to purchase the same goods or services and at the same prices as those listed in the other agency's contract. This is used when another agency obtains a good deal, and it is common among public agencies.

The County of Orange conducted a public bidding process for sidewalk, curb and gutter, and spandrel grinding services in July 2016 and awarded a five-year contract to the lowest bidder, which was BPR, Inc. Staff has verified that the County of Orange's bidding and contract process is consistent with the City's purchasing policies. Further, the Contractor will comply with all of the City of Oxnard's contract requirements.

A typical sidewalk is five feet wide. BPR, Inc. can grind a displacement of 1/4 inch and up to 1 1/2 inches on a five-foot wide sidewalk for $20.75. In comparison, the cost to remove and replace a five-foot wide by five-foot long panel of sidewalk is approximately $8 per square foot, or $200. This is an initial savings of 89.63%. Depending on the cause of the displacement, one site can often be ground multiple times over several years prior to reaching the cost of removal and replacement.

This agreement with BPR, Inc. will allow for a systematic approach to survey and reduce the number of sidewalk displacements in entire neighborhoods. This agreement will be for one (1) year for an amount not to exceed $250,000.

STRATEGIC PRIORITIES

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

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

FINANCIAL IMPACT

There is sufficient budget to cover cost of this project from Measure O Alleyway and Roadway Repairs (Project MO3102).

ATTACHMENTS:

A-7955 BPR Agreement v3

Agreement No. A-7955

AGREEMENT FOR TRADE SERVICES
(INCLUDES LIVING WAGE REQUIREMENTS EFFECTIVE FROM 7/1/16)

THIS AGREEMENT FOR TRADE SERVICES (**"Agreement"**) is entered into in Ventura County, California, this 1st Day of August, 2017, by and between the City of Oxnard (**"City"**) and BPR, Inc. (**"Vendor"**), subject to the following terms and conditions:

1. Vendor shall provide to City the following services: monthly sidewalk, curb and gutter and spandrel grinding services (the **"Services"**).

2. Vendor shall provide the Services during the term of this Agreement, as set forth in Section 3 below. Services shall be performed as described in **Exhibit C**, "Scope of Work." Vendor shall be excused for delays resulting from causes beyond the control of Vendor.

3. This Agreement shall begin on August 1, 2017, and shall end on July 31, 2018. City may terminate this Agreement at any time, with or without cause, by giving written notice to Vendor, specifying the effective date of termination. Unless City asserts that Vendor has breached the Agreement, City agrees to pay Vendor in full for the Services satisfactorily performed as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise. If City pays for any materials, City shall be entitled to the title and possession of such materials.

4. City shall pay Vendor an amount not to exceed $250,000, for the Services performed during the three (3) year term of this Agreement. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. Vendor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Vendor or its employees, subcontractors, agents and sub-vendors 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 Vendor, its employees, subcontractors, agents and sub-vendors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.

5. Vendor shall compensate all of its employees in accordance with both the City's Living Wage Policy and State-required prevailing wages. Vendor understands that in the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail.

a. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as **Exhibit A**. While this Agreement is in effect, Vendor shall pay such employee no less than $15.51 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2018, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles, Riverside, Orange County area relating to all urban consumers (CPI-U), index base 1967 + 100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

b. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

c. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

d. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of $500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

e. In accordance with Labor Code Section 1770 *et seq*., the Project is a "public work." The Vendor 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 Vendor shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit B** and incorporated herein by this reference.

6. a. To the fullest extent permitted by law, Vendor 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, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor'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, losses, 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. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of the Indemnified Party. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Vendor's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

b. The duty to defend is a separate and distinct obligation from Vendor's duty to indemnify. Vendor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Indemnified Party immediately upon tender to Vendor 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 Vendor 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 Vendor 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, Vendor may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

c. The review, acceptance or approval of Vendor's work or work product by the Indemnified Party shall not affect, relieve or reduce Vendor'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.

7. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the work is being performed.

8. a. Vendor shall obtain and maintain during the performance of the Services under this Agreement the insurance coverages specified in **Exhibit INS-D**, attached hereto and incorporated herein by reference, 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 coverages.

b. Vendor shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-D.**

c. Maintenance of insurance coverages by Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered a material breach of this Agreement.

9. In performing the Services under this Agreement, Vendor is an independent contractor. Vendor and Vendor's agents, employees, subcontractors and other persons acting on Vendor's behalf are not officers or employees of City.

10. Vendor shall not, without the written consent of City's Purchasing Officer, assign this Agreement, or any interest therein, or any money due thereunder.

11. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

12. This Agreement may be amended only by a written document signed by both City and Vendor.

13. Any notices to Vendor may be delivered personally or by mail addressed to: BPR, Inc. Attn: Pat Rifley, 461 Las Palmas Dr., Port Hueneme, CA, 93041. Any notices to City may be delivered personally or by mail addressed to: Streets Division, Attn: Raymond Williams, 1060 Pacific Avenue, Bldg. #3, Oxnard, CA, 93030

14. This Agreement constitutes the entire agreement of City and Vendor regarding the subject matter described herein and supersedes all prior communications, agreements and promises, either oral or written.

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

16. 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.

[Signatures on next page]

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

CITY OF OXNARD

____
Tim Flynn, Mayor

ATTEST:

____
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

APPROVED AS TO CONTENT:

____
Daniel Rydberg, Public Works Director

APPROVED AS TO INSURANCE:

____
Mike More, Risk Manager

APPROVED AS TO AMOUNT:

____
Greg Nyhoff, City Manager

____
Ruth Osuna, Assistant City Manager

BPR, Inc.

____
Brian Rifley, President

____
Brian Rifley, Secretary

EXHIBIT A

LIVING WAGE POLICY

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, a service contractor shall pay those employees who provide services to the City under contract:

   (a) Effective October 1, 2002, at least $9.00 an hour for the time during which the employee is providing services to the City;

   (b) Effective July 1, 2003, at least $9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;

   (c) Effective July 1, 2004, at least $10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and

   (d) Effective July 1, 2005, at least $12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.

2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles, Anaheim, Riverside area relating to all urban consumers.

3. A service contractor executing a service contract with the City for which the City will pay the contractor $25,000 or more during the contract term shall be subject to the Living Wage Policy.

4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is $25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.

5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.

6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.

7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.

8. If a service contractor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.

9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.

10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.

11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.

12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit A

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit A. While this Agreement is in effect, Vendor shall pay such employee no less than $15.51 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than the required hours of paid leave per calendar year, as listed in the City's Living Wage Policy.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of $500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2016

a. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **$15.51 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2018, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles, Riverside, Orange County area relating to all urban consumers (CPI-U), index base 1967 + 100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

b. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

c. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

d. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of $500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

e. The foregoing requirements are restated on pages 1 and 2 of the Agreement for Trade Services.

EXHIBIT B

PREVAILING WAGE EXHIBIT

1. The Project defined in the Agreement between Vendor and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Vendor shall perform the Project as a public work. Vendor 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 with the Project Coordinator at City Hall and will be made available to any interested party on request. They are also available at http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html. Vendor shall post such rates at each job site covered by this Agreement.

3. Vendor is required to post job site notices, as prescribed by regulation. *See* Labor Code Section 1771.4(a)(2).

4. Vendor 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. Vendor 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 Vendor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Vendor shall comply with Labor Code Section 1776, which requires Vendor 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. Vendor 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. Vendor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Before commencing work under this Agreement, Vendor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Vendor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Vendor shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or 1777.7. If Vendor becomes debarred or suspended throughout the duration of the Agreement, Vendor shall immediately notify City.

8. Vendor shall not be qualified to work on the Project unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Vendor 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.

9. Vendor acknowledges that 8 hours labor constitutes a legal day's work. Vendor shall comply with and be bound by Labor Code Section 1810.

10. Vendor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Vendor shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Vendor 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 Vendor'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. Vendor 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. Vendor 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. Vendor 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, Vendor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Vendor shall hold harmless, defend (at Vendor's expense with counsel approved by the City Attorney) and indemnify City, its officials, officers, employees, agents and volunteers from and against 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 Vendor, 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 consequential damages, attorneys' fees, and other related costs and expenses. All duties of Vendor under this Section shall survive termination of the Agreement.

EXHIBIT C
SCOPE OF WORK

1. **SCOPE OF WORK:** This Agreement is for grinding of Portland cement concrete sidewalk, curb and gutter, and spandrels. Vendor shall furnish all labor, equipment, tools and incidentals required for sidewalk, curb and gutter, and spandrel grinding services on a monthly basis as directed by the City's Project Manager.

   A. Upon City's issuance of a task order, Vendor shall grind sidewalk with a maximum vertical displacement of up to 1½" at various locations throughout the City. Work locations for this Agreement will include public streets within the City of Oxnard's city limits.

   B. Vendor shall at all times comply with other items of work or details not mentioned in this Exhibit required by the 2012 edition of the Standard Plans for Public Works Construction and the 2012 edition of the Standard Specifications for Public Works Construction at no additional compensation.

   C. Vendor shall perform grinding of sidewalks, curb, gutters, and spandrels at locations which have a maximum vertical displacement of up to 1½". Locations which have vertical displacements in excess of ½" shall be noted and no grinding will be permitted. Each sidewalk grind of five (5) feet or less will be considered as one (1) location. This description is applicable to locations that require half of one sidewalk panel and half of the sidewalk panel adjacent to it to be ground so that the grind is a full sidewalk width. Vendor shall not grind City's displacements that are parallel to the sidewalk without prior approval of the City's Project Manager.

   D. Vendor shall perform grinding with abrasive grinding equipment utilizing diamond cutting blades. Vendor shall ensure that the sidewalk surface on both sides of the transverse joint or crack has essentially the same texture (as determined by the City's Project Manager) and does not vary from a true plane enough to permit a 0.3 cm shim 10 cm wide to pass under a straightedge laid on the finished surface parallel with the centerline. Vendor shall also ensure that the transverse slope of finished surface shall also be uniform.

   E. Vendor shall vary the length of the grind from a minimum of 4" for a ½" differential to a minimum of 12" for 1 ½" differential, as directed by City's Project Manager. Width of the grind shall extend the entire width of the sidewalk.

   F. Vendor shall not smooth or polish ground services and shall ensure these ground surfaces have a coefficient of friction of not less than 0.30, as determined by California Test 342.

   G. Vendor shall pick up residue from grinding operations by means of a vacuum attachment to the grinding machine, which shall not be allowed to flow across the sidewalk or be left on the surface or surrounding landscape of the sidewalk. Vendor shall properly dispose of residue away from the job site and in accordance with City Project Manager's requirements and applicable laws and regulations.

   H. Vendor shall ensure that the noise level created by the combined grinding operation shall not exceed 86 dba at a distance of 50' at right angles to the direction of travel.

I. A “location” is defined as one sidewalk joint that is a maximum of 5' wide. However, typical locations will be 4'-6' wide.

2. **LOCATION OF WORK:** Work locations for this Agreement will include public streets within the City limits of the City of Oxnard, as determined more specifically in a City-issued task order.

Exhibit INS-D

INSURANCE REQUIREMENTS FOR SMALL/MEDIUM CONSTRUCTION AND SERVICES CONTRACTS (WITHOUT BUILDER'S RISK REQUIREMENT)

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

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 location or shall be twice the occurrence amount;

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;"

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

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.

Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-D. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Reference No. A-7955
300 West Third Street, Suite 302
Oxnard, California 93030

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

Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-D 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).**

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.

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

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

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

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

Endorsement Forms

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

INS-D.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

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

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

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

SAMPLE

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

CERTIFICATE HOLDER

City of Oxnard
Attn: Risk Manager
Reference No. _A-7955_________
300 W. Third Street, Suite 302
Oxnard CA 93030

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
COMMERCIAL GENERAL LIABILITY Claims Made
COMPREHENSIVE GENERAL LIABILITY Retroactive Date ______________
OWNERS & CONTRACTORS PROTECTIVE Occurrence

OTHER PROVISIONS

COVERAGES

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

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:
Name:_____
Address: ______________

Telephone: ( )

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

INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:
Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

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

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No._A-7955_
300 W. Third Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE
Broker/Agent Underwriter ____

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

Signature ______________
(original signature required)

Telephone: ( ) Date Signed ______________

Rev. 6/17 INS-D.doc

Agreement No. A-7955

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

COMMERCIAL AUTO POLICY
BUSINESS AUTO POLICY
OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

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

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: ____________
Address:__
____
Telephone: ()_____

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

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

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

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

If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

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

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No. _A-7955_
300 W. Third Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE

Broker/Agent Underwriter ____________

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

Signature ____________
(original signature required)

Telephone: ( ) Date Signed ____________

Rev. 6/17 INS-D.doc

Agreement No. A-7955

CITY OF OXNARD CALIFORNIA	**CITY COUNCIL** **AGENDA REPORT**	**TYPE OF ITEM: Report** **AGENDA ITEM NO.: 5**

DATE: June 27, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

Greg Nyhoff

FROM: Daniel Rydberg
Public Works Director

Daniel Rydberg

SUBJECT: First Amendment to Agreement No. 7517-16-CM with West Coast Arborists, Inc. for On-Call Tree Trimming Services (5/10/5)

CONTACT: Daniel Rydberg, Public Works Director
Daniel.Rydberg@oxnard.org, 385-8055

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute a First Amendment to Agreement No. 7517-16-CM with West Coast Arborists, Inc. in the amount of $700,000 to increase the amount from $246,255 to a total amount of $946,255 for on-call citywide tree trimming services.

BACKGROUND

The City of Oxnard would like to enter into a First Amendment with West Coast Arborists, Inc. to increase the total amount from $246,255 in an amount of $700,000 for a total amount of $946,255. In the scope of this work, Contractor shall perform and provide all necessary labor, services, supervision, materials, tools, equipment, apparatus, supplies, temporary utilities, utility connections, and transportation for tree trimming services including tree site evaluation, tree pruning, palm tree pruning, tree root pruning, tree watering, tree inventory maintenance and technical support, reporting, inspection, and project management.

On June 28, 2016, the City Council approved the original Agreement in an amount of $246,255 for a period of three (3) years. There is currently $17,115 remaining in the contract. The contract has been funded by Measure O, the General Fund and LMD 42. This Agreement is a piggyback agreement with the City of Glendale, California. The City of Glendale conducted a

Request for Proposal (RFP) on April 10, 2015 for tree trimming services. The contract was awarded to West Coast Arborist on September 1, 2015, for a period of five (5) years.

The City of Oxnard Public Works Department, Parks Division has over 48,000 trees throughout the parkways, medians, and parks. Currently, there is a twenty-five (25) month tree trimming request backlog with approximately 663 open requests. In the last five years the Parks Division has trimmed 6791 trees, which equates to 14 percent of the entire inventory. In order to get caught up with the tree trimming request(s), it would take approximately eight years with a $500,000 allocation per year for this operation. Trees have not been trimmed regularly for years, and in some cases, this has affected a tree's health or shortened its lifespan.

This contract amendment will aid with the outstanding requests and will also allow for trimming in the Central Business District ("CBD") area of Downtown Oxnard. In a separate agenda item prepared by the Economic Development Department, staff identified two funding sources to support this function: approximately $97,757 in the Downtown Improvement Project Settlement Funds ("DIPSF") and $97,757 from the General Fund. The anticipated amount needed for the CBD Tree Trimming Project is approximately $195,514, so these funds are sufficient. The proposed amendment to the Agreement will allow West Coast Arborist to complete tree trimming in the CDB area. The Parks Division will use this amendment to help minimize the backlog of tree trimming services throughout medians, parkways and parks up to $204,486. The RiverPark Community Facilities District (CFD) # 5 will use the tree trimming services for medians, parkways and parks within the CFD for $200,000. The landscape maintenance districts (LMDs) will also use the services to maintain medians and parkways for $100,000.

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.

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.
Goal 3. Enhance business retention and attraction.
Goal 5. Revitalize Oxnard's downtown and pursue economic development opportunities.

FINANCIAL IMPACT

Of the $700,000 amended contract value, $233,334 is the estimated cost for Fiscal Year 17-18.

Sufficient funds are available in the FY 2017 -2018 budget from General Fund Parks, Riverpark CFD #5, CDB Tree Trimming – Downtown Improvement Settlement Fund, and Landscape Maintenance Districts.

ATTACHMENTS:

Attachment A - First Amendment to Agreement No. 7517-16-CM

Agreement No. 7517-16-CM

FIRST AMENDMENT TO AGREEMENT FOR TRADE SERVICES

This First Amendment ("First Amendment") to the Agreement for Trade Services ("Agreement") is made and entered into in the County of Ventura, State of California, this _______ day of _____________, 2017, by and between the City of Oxnard, a municipal corporation ("City"), and West Coast Arborists, Inc. ("Vendor"). This First Amendment amends the Agreement entered into on June 28, 2016, by City and Vendor.

City and Vendor agree as follows:

1. In recital 7 of the agreement, the figure "$246,255" is deleted and replaced with the figure "946,255."

2. In Section 2 of the agreement, the date "June 19, 2019" is deleted and replaced with the date "June 19, 2020."

3. In Section 3 of the agreement, the figure "$246,255" is deleted and replaced with the figure "946,255."

4. Section 21 is added to the agreement as follows:

> "21. 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."

5. In Exhibit C, items 6, 7, 8, 9 and 10 are removed.

6. 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

______________________ ____________
■ Tim Flynn, Mayor Date
(if agreement is $250,000.01 or more)
☐ Greg Nyhoff, City Manager (if agreement is $25,000.01-$250,000.00)
☐ [name], Purchasing Agent (if agreement is up to $25,000.00)

WEST COAST ARBORISTS, INC.

______________________ 5/30/17
Patrick Mahoney, President Date

______________________ 5-30-17
Richard Mahoney, Assistant Secretary Date

ATTEST:

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

APPROVED AS TO FORM:

______________________ 5/24/17
Stephen M. Fischer, City Attorney Date
(required for any agreement amount)

APPROVED AS TO CONTENT:

______________________ 6-8-17
J. Arthur Gutierrez, Project Manager Date
(required for any agreement amount)

______________________ 5-30-17
Daniel Rydberg, P.E. Date
Public Works Director
(if agreement is $25,000.01 or more)

______________________ ____________
Ruth Osuna, Assistant City Manager Date

APPROVED AS TO AMOUNT:

______________________ ____________
Greg Nyhoff, City Manager Date
(if agreement is $250,000.01 or more)

APPROVED AS TO INSURANCE:

______________________ 5-30-17
Mike More, Risk Manager Date
(required 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.

FIRST AMENDMENT TO AGREEMENT FOR TRADE SERVICES

Certificate of Insurance

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON YOU THE CERTIFICATE HOLDER. THIS CERTIFICATE IS NOT AN INSURANCE POLICY AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW. POLICY LIMITS ARE NO LESS THAN THOSE LISTED, ALTHOUGH POLICIES MAY INCLUDE ADDITIONAL SUBLIMIT/LIMITS NOT LISTED BELOW.

This is to Certify that

WEST COAST ARBORISTS, INC
2200 EAST VIA BURTON
ANAHEIM CA 92806

NAME AND ADDRESS OF INSURED

Liberty Mutual. INSURANCE

is, at the issue date of this certificate, insured by the Company under the policy(ies) listed below. The insurance afforded by the listed policy(ies) is subject to all their terms, exclusions and Conditions and is not altered by any requirement, term or condition of any contract or other document with respect to which this certificate may be issued.

TYPE OF POLICY	EXP DATE ☐ CONTINUOUS ☐ EXTENDED ☑ POLICY TERM	POLICY NUMBER	LIMIT OF LIABILITY	
WORKERS COMPENSATION Statutory Limits	7/1/2017	WA7-66D-039499-076	COVERAGE AFFORDED UNDER WC LAW OF THE FOLLOWING STATES: All States Except: ND, OH, WA, WY	EMPLOYERS LIABILITY Bodily Injury by Accident $1,000,000 Each Accident Bodily Injury By Disease $1,000,000 Policy Limit Bodily Injury By Disease $1,000,000 Each Person
COMMERCIAL GENERAL LIABILITY ☑ OCCURRENCE ☐ CLAIMS MADE	7/1/2017 RETRO DATE	TB2-661-039499-016	General Aggregate $2,000,000 Products / Completed Operations Aggregate $2,000,000 Each Occurrence $1,000,000 Personal & Advertising Injury $1,000,000 Per Person / Organization Other: Damage to premises rented to you $300,000	Other: Medical Expense $5,000
AUTOMOBILE LIABILITY ☑ OWNED ☑ NON-OWNED ☑ HIRED	7/1/2017	AS7-661-039499-036	$2,000,000 Each Accident—Single Limit B.I. And P.D. Combined Each Person Each Accident or Occurrence Each Accident or Occurrence	
OTHER Umbrella Excess Liability	7/1/2016 - 7/1/2017	TH7-661-039499-046	$5,000,000 Per Occurrence/Aggregate	

ADDITIONAL COMMENTS

The City of Oxnard , its City Council, officers, employees and volunteers are additional insured with regards to general liability and automobile liability, as their interest may appear, where required by written contract.
The insurance afforded by the general liability policy for the benefit of the additional insured shall be primary and non-contributory.
Waiver of Subrogation is included in favor of the additional insured on workers compensation, where allowed by statute, and applies only to the specific jobs of the insured performed under written contract, and where applicable by law.

* If the certificate expiration date is continuous or extended term, you will be notified if coverage is terminated or reduced before the certificate expiration date.

NOTICE OF CANCELLATION: (NOT APPLICABLE UNLESS A NUMBER OF DAYS IS ENTERED BELOW.) BEFORE THE STATED EXPIRATION DATE THE COMPANY WILL NOT CANCEL OR REDUCE THE INSURANCE AFFORDED UNDER THE ABOVE POLICIES UNTIL AT LEAST 30 DAYS NOTICE OF SUCH CANCELLATION HAS BEEN MAILED TO:

Liberty Mutual Insurance Group

Certificate Holder

City of Oxnard
Risk Manager
Reference No. Req. #2395
300 West Third Street, Suite 302
Oxnard CA 93030

Elaine Ulan

Elaine Ulan
AUTHORIZED REPRESENTATIVE

Los Angeles / 0603
818 W 7th Street, Suite 850
Los Angeles CA 90017 — 0564408 — 213-624-1171 — 6/16/2016

OFFICE — PHONE — DATE ISSUED

This certificate is executed by LIBERTY MUTUAL INSURANCE GROUP as respects such insurance as is afforded by those Companies NM 772 07-10

30425196 | LM 2819 | 7/16-7/17 - GL/2/1, AL/2, WC/1, U/5 | Donna Smitala | 6/16/2016 9:16:16 AM (CDT) | Page 1 of 1

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Additional premium is a percent of the California Manual Workers Compensation premium. Subject to a minimum premium charge of $ 250.

Person or Organization	Job Description
Where required by contract or written agreement prior to loss and allowed by law	

Issued by Liberty Insurance Corporation 21814

For attachment to Policy No. WA7-66D-039499-076 Effective Date Premium $

Issued to West Coast Arborists, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
All persons or organizations with whom you have entered into a written contract or agreement, prior to an occurrence or offense, to provide additional insured status.	All locations as required by a written contract or agreement entered into prior to an occurrence or offense.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

POLICY NUMBER: TB2-661-039499-016

COMMERCIAL GENERAL LIABILITY
CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any owner, lessee, or contractor for whom you have agreed in writing prior to a loss to provide liability insurance	Any location listed in such agreement

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

POLICY NUMBER: AS7-661-039499-036

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

SCHEDULE

Name Of Person(s) Or Organization(s):
Any person or organization whom you have agreed in writing to add as an additional insured, but only to coverage and minimum limits of insurance required by the written agreement, and in no event to exceed either the scope of coverage or the limits of insurance provided in this policy.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** - Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** - Covered Autos Coverages of the Auto Dealers Coverage Form.