

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



AGENDA
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
Council Chambers, 305 West Third Street
April 27, 2021
Regular Meeting - 5:00 to 6:30 PM
(TEMPORARY MEETING TIME CHANGE)

This meeting is held pursuant to the State Emergency Services Act, the Governor's Emergency Declaration, and Governor's Executive Order N-29-20 to allow members of the City Council or staff to participate via teleconference.

As a precautionary measure to help slow the spread of COVID-19, the City Council facilities are temporarily closed to the public. The public is encouraged to view the meeting from home on the City's website at Oxnard.org/city-meetings, Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings are typically available online immediately following the meeting. *Please see the link for the Measure M pre-recorded presentation video for each agenda item below.

The public may provide comments to the City Council via email at cityclerk@oxnard.org no later than [2:00 p.m.](#) on the day of the meeting. Please identify the committee name, meeting date, and agenda item in the email Subject line.

A telephone option for public comments is also available at this time. Requests to speak must be submitted no later than [2:00 p.m.](#) on the day of the meeting. Use the form on the city's website to submit your request: Oxnard.org/city-meetings, or call the City Clerk's Office at (805) 385-7803, or email your request to cityclerk@oxnard.org.

*The City has filed pre-election and post-election lawsuits regarding the validity of Measure M. The judge has not yet ruled on the legal sufficiency of Measure M.

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

B. 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 requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. If the allotted 30 minute time period expires before all speakers have had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

C. REPORTS

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

Agenda Item time estimates: (Presentation / Committee Discussion / Public Comment)

1. Information Technology Department

SUBJECT: Renewal of Google Enterprise License Agreement.

RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council approve the Second Amendment of Software License Agreement A-7916 with Dito LLC for the purpose of renewing the City's Google Enterprise Licenses for another five years in the amount of \$780,600, or \$156,120 annually plus another \$250,000 for additional user licenses as may be needed. Thus, the total five year authorization amounts to \$1,030,600.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/ATfe0ywiOf0>

Contact: Raja Bamrungpong, (805) 385-7554

2. Information Technology Department

SUBJECT: Purchase of Computer Equipment from Compuwave.

RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council:

1. Approve and authorize the Mayor to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 1; and
2. Approve and authorize the City Manager to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 2.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/-1vpfVjc-UQ>

Contact: Raja Bamrungpong, (805) 385-7554

3. Human Resources Department

SUBJECT: Agreement No. A-8319 with George Hills Company, Inc. for liability claims administration and adjustment services.

RECOMMENDATION: That the Finance and Governance Committee recommend that City Council approve Agreement No. A-8319 with George Hills Company, Inc. in an amount not to exceed \$1,084,182 for liability claims administration and adjustment services over a five-year term.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/i3o996gkAhE>

Contact: Steve Naveau, (805) 385-7947

4. City Manager Department

SUBJECT: Whistleblower Hotline Services Agreement Extension.

RECOMMENDATION: That the Finance and Governance Committee recommend the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement No. A-7986 with Price Paige and Company to add three years to its whistleblower hotline services.

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

Contact: Shiri Klima, (805) 385-7487

D. ITEMS FOR FUTURE AGENDAS

E. ADJOURNMENT



**FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT
REPORTS
AGENDA ITEM NO. C.1**

DATE: April 27, 2021

TO: Finance & Governance Committee

FROM: Raja Bamrungpong, Interim Information Technology Director, (805) 385-7554, raja.bamrungpong@oxnard.org

SUBJECT: Renewal of Google Enterprise License Agreement.

RECOMMENDATION

That the Finance and Governance Committee recommend that the City Council approve the Second Amendment of Software License Agreement A-7916 with Dito LLC for the purpose of renewing the City's Google Enterprise Licenses for another five years in the amount of \$780,600, or \$156,120 annually plus another \$250,000 for additional user licenses as may be needed. Thus, the total five year authorization amounts to \$1,030,600.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/ATfe0ywiOf0>

BACKGROUND

The City has been using Google systems since 2013, initially at the Police Department, and citywide since 2016. These systems are the backbone of the City's email platform, document storage and retention, office productivity suites and compliance with electronic discovery for fulfilling Public Records Act requests. In May of 2018, Council approved a three-year renewal term with our Google reseller, Dito LLC, for 1,375 Google licenses at a cost of \$355,950 for all three years plus an additional \$150,000 for future needs for a total of \$505,950. City has spent \$491,000 with the vendor during this same three year period.

DISCUSSION

The term of the current Dito LLC contract expires in September of 2021. Since 2018, the City's needs for enterprise licenses has grown, especially in light of the needs of the new ERP project. The IT Department has negotiated a five-year renewal term for 1,500 enterprise licenses. Additionally, the extension includes 100 archive licenses, which are lower-priced licenses for the purpose of retaining sensitive data from previous employees. If the City Council approves the extension, the City will continue to enjoy the benefits of an extremely cost effective and robust system even as its data needs continue to increase.

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 3c. Improve our methods of communicating with residents, businesses and neighborhoods (e.g. leverage social media and tools like Nextdoor).

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.

FINANCIAL IMPACT

The total cost of this five year agreement with Dito LLC is \$780,600 plus a \$250,000 contingency amount for additional licenses as needed, for a total of \$1,030,600. Funds for this expenditure are budgeted into the IT Department's annual budget.

Prepared by: Gary Krumian, Programmer Analyst

ATTACHMENTS

1. A-7916 Dito Second Amendment
2. A-7916 Dito Google 1st Amendment
3. Dito A-7916 Agreement 2016
4. Dito Google Finance Committee Presentation 4_27_21

SECOND AMENDMENT TO AGREEMENT FOR CONSULTING SERVICES

This Second Amendment ("Amendment") to the Agreement for Consulting Services is made and entered into in the County of Ventura, State of California, this 9th day of March, 2021, by and between the City of Oxnard, a municipal corporation ("City"), and Dito, LLC, domiciled in the State of Virginia with offices at 11710 Plaza America Drive, Suite 2000, Reston, VA 20190, ("Dito"). This Amendment amends the First Amendment ("First Amendment") entered into on March 28, 2018 which amended the agreement entered into on September 20, 2016, between City and Dito.

WHEREAS, City desires to amend the Agreement to renew the software licenses listed herein.

WHEREAS, City and Dito agree that renewal of Google Workspace Enterprise licenses listed herein is for the 60 month period from September 13, 2021 through September 12, 2026. The software license cost during the five year period is \$780,600 payable annually at \$156,120.

WHEREAS, this Amendment provides for a contingency in the amount of \$250,000 to allow the City to acquire additional user licenses and services related to the Enterprise Resource Planning project and future data needs as required.

Now, Therefore, City and Dito agree as follows:

1. The above recitals are hereby incorporated as part of this Agreement.
2. Exhibit 1 of the First Amendment is hereby deleted and replaced with Exhibit 1A, attached hereto and incorporated by this reference.
3. Section 2 of the First Amendment is hereby deleted and replaced with the following, "City shall pay Dito \$780,600 in five annual payments of \$156,120."
4. Section 3 of the First Amendment is hereby deleted and replaced with the following, "The total not to exceed value of this Agreement is \$1,750,400."
5. The parties agree that this Agreement may be transmitted and signed by electronic signature by either/any or both/all parties, and that such signatures shall have the same force and effect as original signatures, in accordance with California Government Code section 16.5 and Civil Code section 1633.7.
6. 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**DITO LLC**

- ☐ John C. Zaragoza, Mayor¹
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Agent

 Date

Karl von Schilling

 03/26/2021

 Michelle Brown, CFO

 Date

Karl von Schilling

 03/22/2021

 Karl von Schilling, COO

 Date

ATTEST:

 Rose Chaparro, City Clerk

 Date

APPROVED AS TO FORM:

DocuSigned by:

Jason Zaragoza

 Stephen M. Fischer, City
 Attorney

4/7/2021 | 10:10 AM PDT

 Date

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

¹ 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 1A

Date - 02/02/2021								
Google Workspace Enterprise Plus - 1,500 users (Combined current Enterprise Editon users and Business Deskless license users)								
SKU	List/User/Month	# of Employees	List Price for 5-Years	Discount	Net/User/Month	Annual Price (approx)	5-Year Price	Total Savings
Enterprise Plus	\$30.00	1,500	\$2,700,000.00	71.87%	\$8.44	\$151,920.00	\$759,600.00	\$1,940,400.00
Enterprise Archive User Licenses - 100 users (to replace VFE licenses)								
SKU	List/User/Month	# of Employees	List Price for 5-Years	Discount	Net/User/Month	Annual Price (approx)	5-Year Price	Total Savings
Enterprise Archive User	\$7.00	100	\$42,000.00	50.00%	\$3.50	\$4,200.00	\$21,000.00	\$21,000.00
Total 5 - Year Costs	\$780,600.00							
9/13/2021 - 9/12/2026								
Total 5 - Year Savings	\$1,961,400.00							
** Enterprise Archive User Licenses will need to be purchased as VFE Licenses are no longer available								



Date March 18, 2021
Valid Through April 14, 2021

Account City of Oxnard
Contact Gary Krumian
Phone (805) 385-7430
Email gary.krumian@oxnard.org
Shipping Address 300 W. 3rd Street,
 Oxnard, CA,
 93030, United States

Accounts Payable Contact
Accounts Payable Email
Accounts Payable Phone
Billing Address 300 W. 3rd Street, 2nd
 Floor, Oxnard, CA, 93030, United States

Order Form # Co3182021
Account Manager Megan Bernhardt
Phone 512-942-7971

Payment Terms Net 30
Billing Frequency Annual Prepaid
Service Term 60 months
Service Start Date 9/13/2021
Domain oxnard.org
PO Required? Yes/No

Off Domain Email

Tax Exempt?
 If yes, please email your certificate to ar@ditoweb.com

Name	Price	QTY	Terms of Service	Subtotal
Enterprise Archive User Licenses ** This is the full total amount for the 60 month contract length ** Archive User Licences will be invoiced Annually	\$420.00	100	http://www.google.com/apps/intl/en/terms/reseller_premier_terms.html	\$42,000.00
Archive User License Discount	-\$210.00	100		-\$21,000.00
Google Workspace Enterprise Plus Licenses ** This is the full total amount for the 60 month contract length ** Google Workspace Enterprise Plus Licences will be invoiced Annually	\$1,800.00	1,500		\$2,700,000.00
Google Workspace Discount	-\$1,293.60	1,500		-\$1,940,400.00

Subtotal **\$780,600.00**

Total \$780,600.00

Signature Certificate

Document Ref.: YKCK4-BBCO2-DQO9B-CECUG

Document signed by:

	Karl von Schilling Verified E-mail: karl@ditoweb.com	 
IP: 70.110.22.22	Date: 26 Mar 2021 15:18:53 UTC	

Document completed by all parties on:
26 Mar 2021 15:18:53 UTC

Page 1 of 1



Signed with PandaDoc.com

PandaDoc is the document platform that boosts your company's revenue by accelerating the way it transacts.



**FIRST AMENDMENT TO
AGREEMENT FOR CONSULTING SERVICES**

This First Amendment ("**Amendment**") to the Agreement for Consulting Services is made and entered into in the County of Ventura, State of California, this 28th day of March, 2018, by and between the City of Oxnard, a municipal corporation ("**City**"), and Dito, LLC, domiciled in the State of Virginia with offices at 11710 Plaza America Drive, Suite 2000, Reston, VA 20190, ("**Dito**"). This Amendment amends the Agreement entered into on September 20, 2016, between City and Dito.

WHEREAS, City desires to amend the Agreement to renew the software licenses listed herein;
and

WHEREAS, City and Dito agree that renewal of the software licenses listed herein is for the 36 month period from September 13, 2018 through September 12, 2021. The software license cost during the three year period is \$355,950 payable annually at \$118,650.

WHEREAS, during December 2017, City purchased additional G Suite Deskless Licenses at a total cost of \$8,700. This cost is prorated through the end of August 2018 and will be paid as part of this Amendment.

WHEREAS, this Amendment provides for a contingency in the amount of \$150,000 to allow the City to acquire additional user licenses and services related to the use of the Google Cloud Platform (GCP) as the City's growth and future data needs may require.

Now, Therefore, City and Dito agree as follows:

1. The license agreement set forth in Exhibit 1 and associated services are hereby added to the Agreement.
2. City shall pay Dito \$355,950 in three annual payments of \$118,650.
3. City shall pay Dito \$8,700 for invoice 21753 dated January 4, 2018.
4. The total not to exceed value of this Agreement is \$719,800.
5. 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

Tim Flynn 4/8
Tim Flynn, Mayor Date

DITO, LLC

Michelle Brown 03/27/2018
Michelle Brown, CFO Date

Karl von Schilling 03/28/2018
Karl von Schilling, COO Date

ATTEST:

Michelle Ascencion 5/8/18
Michelle Ascencion, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer 3/28/18
Stephen M. Fischer, City Attorney Date

APPROVED AS TO CONTENT:

Raja Bamrungpong 3/29/18
Raja Bamrungpong, Project Manager Date

Keith Brooks 3/28/18
Keith Brooks, IT Director Date

APPROVED AS TO AMOUNT:

Scott Whitney 5/8/18
Scott Whitney, Interim City Manager Date

APPROVED AS TO INSURANCE:

Mike More 5/8/18
Mike More, Risk Manager Date

The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC; or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

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

PLEASE DO NOT
REMOVE THIS BOX

DITO, LLC FIRST AMENDMENT

Exhibit 1

Name	Price	QTY	Terms of Service	Subtotal
G Suite Enterprise \$90 PUY, 3 Year Term Start Date: 9/13/2018 End Date: 9/13/2021 Payments made annually over the next 36 months.	\$270.00	1,205	http://www.google.com/apps/intl/en/terms/reseller_premier_terms.html	\$325,350.00
G Suite Business - Deskless \$60 PUY, 3 Year Term Start Date: 9/15/2018 End Date: 9/15/2021 Payments made annually over the next 36 months.	\$180.00	170	http://www.google.com/apps/intl/en/terms/reseller_premier_terms.html	\$30,600.00
				Subtotal \$355,950.00
				Total \$355,950.00

TERMS AND CONDITIONS: BY SIGNING THIS ORDER FORM YOU EXPRESSLY AND UNEQUIVOCALLY AGREE TO BE BOUND BY THE PRODUCT TERMS OF SERVICE AND THE DITO TERMS AND CONDITIONS ("T&C"), BOTH OF WHICH ARE HEREBY INCORPORATED BY REFERENCE IN THEIR ENTIRETY. YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE REVIEWED THE T&C IN DETAIL AND HAVE HAD AMPLE OPPORTUNITY TO CONSULT WITH COUNSEL.

Dito Terms & Conditions: <https://goo.gl/VNJy9Q>



Dito, LLC
9813 Sugarwood
Lane
Manassas, VA
20110 Fax (267)
306-4606

City Agreement No. A-7916

Agreement for Consulting Services

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into in the County of Ventura, State of California, this 20th day of September, 2016, by and between the City of Oxnard, a municipal corporation ("City"), and Dito, LLC. ("Consultant").

WHEREAS, City desires to hire Consultant to perform and provide 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; and

WHEREAS, In 2013 the Oxnard Police Department began investigating alternatives to a locally-hosted email solution; and

WHEREAS, bids were obtained from four potential solution providers and Google Apps for Government was chosen based on their lower price and superior offerings; and

WHEREAS, Google proposed Consultant as the City vendor and in January of 2014 Consultant was paid \$22,250 for 445 licenses for Police Department staff; and

WHEREAS, With the transition of all other City employees to the current Police Department licenses, the new total of licenses held by the City of Oxnard rose from 455 to 1,205 with a Purchase Order for \$42,692.50 in November of 2015; and

WHEREAS, In June of 2016 the Google Vault module was added to the City licenses for an additional fifty dollars per user account for total cost of \$120,500; and

WHEREAS, City wishes to upgrade to Google Apps Unlimited for \$204,850 for added security and storage options; and

WHEREAS, prior payments to Consult are 185,442, and this agreement represents a prospective cost of 204,850 for 17 months of Google Apps Unlimited service.

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

1. Purchase terms:

Name	Price	QTY	Terms of Service	Subtotal
Drive for Work/Google Apps Unlimited Google Apps Unlimited 23 months for the cost of 17. Payments to be made quarterly over the next 23 months.	\$170.00	1,205	Attached hereto as Exhibit A	\$204,850.00

Subtotal \$204,850.00

Total \$204,850.00

*COUNCIL APPROVED
10-04-2016 KF*



Dito, LLC
9813 Sugarwood
Lane
Manassas, VA
20110 Fax (703)
306-4808

2. Terms and Conditions.

TERMS AND CONDITIONS: BY SIGNING THIS AGREEMENT CITY AGREES TO BE BOUND BY THE PRODUCT TERMS OF SERVICE AND THE DITO TERMS AND CONDITIONS ("T&C"). THE PRODUCT TERMS OF SERVICE ARE HEREBY INCORPORATED BY REFERENCE IN THEIR ENTIRETY AND THE DITO TERMS OF SERVICE ARE FOUND IN EXHIBIT A. CITY ACKNOWLEDGES ITS REVIEW OF THE T&C IN DETAIL.

3. Account Contacts and Billing Information.

Account Manager Toby Noding

Phone (571) 762-1684

Account City of Oxnard Contact Randy Mitchell **Phone** 805-432-8695

Email randy.mitchell@oxnard.org

Shipping Address 300 W. 3rd Street, 2nd Floor, Oxnard, CA, 93030

Payment Terms Net 15

Billing Frequency Quarterly

Service Term 23 Months

Service Start Date 8/8/2016

Domain oxnard.org

Billing Contact Keith Brooks

Billing Address 300 W. 3rd Street, 2nd Floor, Oxnard, CA, 93030



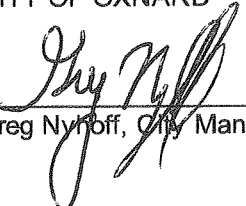
Dito, LLC
9913 Sugarwood
Lane
Manassas, VA
20110 Fax (257)
306-4806

4. Counterparts.

City and Consultant agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

CITY OF OXNARD

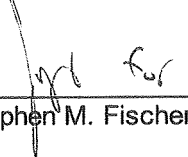
Dito, LLC



Greg Nyhoff, City Manager

APPROVED AS TO FORM:

APPROVED AS TO INSURANCE:



Stephen M. Fischer, City Attorney



Risk Manager

APPROVED AS TO CONTENT:



Randy Mitchell, Project Manager



20110 FPC 287
SD 3 12 11 12 4 4

Dito, LLC
9813 Sugarwood
Lane
Manassas, VA
20110 FPC 287
306-4806

4. Counterparts.

City and Consultant agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

CITY OF OXNARD

Dito, LLC

Greg Nyhoff, City Manager

Michelle Brown

APPROVED AS TO FORM:

APPROVED AS TO INSURANCE:

Stephen M. Fischer, City Attorney

Risk Manager

APPROVED AS TO CONTENT:

Randy Mitchell, Project Manager



Dito, LLC
9913 Sugarwood
Lane
Manassas, VA
20110 Fax (267)
306-4606

Exhibit A - Dito Terms of Service

GENERAL TERMS AND CONDITIONS

1. Applicability.

(a) Other than the order form (the "**Order Confirmation**"), these terms and conditions (these "**Terms**") are the only terms that govern the provision of services by Dito, LLC ("**Service Provider**") to you ("**Customer**"). By executing the Order Confirmation, you hereby agree to these Terms.

(b) The accompanying Order Confirmation and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Order Confirmation, the Order Confirmation will control.

(c) These Terms prevail over any of Customer's general terms and conditions regardless whether or when Customer has submitted its request for proposal, order, or such terms. Provision of services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.

2. Services. Service Provider shall provide the products and services to Customer as described in the Order Confirmation (the "**Services**") in accordance with these Terms. Please note that, to the extent that Service Provider is playing the role of a reseller in connection with any of the items listed on an Order Confirmation, Service Provider disclaims any and all liability whatsoever in connection with the products and/or services it is reselling, and Customer hereby expressly acknowledges and agrees to such disclaimer. Customer also agrees to any terms and conditions referenced in the Order Confirmation and accessible by web link or otherwise and relating to the products and/or services that Service Provider is reselling.

3. Performance Dates. Service Provider shall use commercially reasonable efforts to meet any performance dates specified in the Order Confirmation, provided that any such dates shall be estimates only.

4. Customer's Obligations. Customer hereby covenants that it shall:



Dito, LLC
9913 Sugarwood
Lane
Manassas, VA
20110 Fax (267)
306-4806

(a) cooperate with Service Provider in all matters relating to the Services and provide such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Service Provider, for the purposes of properly performing the Services;

(b) respond promptly to any Service Provider request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Service Provider to perform Services in accordance with the requirements of this Agreement;

(c) provide such customer materials or information as Service Provider may reasonably request to carry out the Services in a timely manner, and ensure that such customer materials or information are complete and accurate; and

(d) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

5. Customer's Acts or Omissions. If Service Provider's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Service Provider shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

6. Change Orders.

(a) If either party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other party in writing. Service Provider shall, within a reasonable time after such request, provide a written estimate to Customer of any necessary variations to the fees and other charges for the Services arising from the change.

(b) Promptly after receipt of the written estimate, the parties shall negotiate in good faith in order to agree in writing on the terms of such change (a "**Change Order**"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing in accordance with **Section 26**.

(c) Notwithstanding **Section 6(a)** and **Section 6(b)**, Service Provider may from time to time change the Services without the consent of Customer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Order Confirmation.

(d) Service Provider may charge for the time it spends assessing and documenting a change request from Customer on a time basis in accordance with the Order Confirmation.



Dito, LLC
9913 Sugarwood
Lane
Manassas, VA
20110 Fax (267)
306-4606

7. Fees and Expenses; Payment Terms; Interest on Late Payments.

(a) In consideration of the provision of the Services by the Service Provider and the rights granted to Customer under this Agreement, Customer shall timely pay all fees set forth in the Order Confirmation.

(b) Customer agrees to reimburse Service Provider for any pre-approved travel and out-of-pocket expenses incurred by Service Provider in connection with the performance of the Services.

(c) Unless otherwise specified on the Order Confirmation, Customer shall pay all invoiced amounts due to Service Provider upon receipt of Service Provider's invoice. Customer shall make all payments hereunder in US dollars by wire transfer, ACH, check or credit card.

(d) In the event payments are not received by Service Provider promptly upon becoming due, Service Provider may:

(i) charge interest on any such unpaid amounts at a rate of 1.5% per month or, if lower, the maximum amount permitted under applicable law, from the date such payment was due until the date paid; and

(ii) suspend performance for all Services until payment has been made in full.

8. Taxes. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder.

9. Intellectual Property. All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of the Service Provider in the course of performing the Services, including any items identified as such in the Order Confirmation (collectively, the "**Deliverables**") except for any Confidential Information of Customer or customer materials shall be owned by Service Provider or its licensors. Service Provider hereby grants Customer a license to use all Intellectual Property Rights free of additional charge and on a limited use, non-exclusive, worldwide, non-transferable, non-sublicenseable, fully paid-up, royalty-free and perpetual basis solely to the extent necessary to enable Customer to make use of the Deliverables and the Services.



10. Confidential Information.

(a) All non-public, confidential or proprietary information of Service Provider, including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing (collectively, "**Confidential Information**"), disclosed by Service Provider to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the provision of the Services and this Agreement is confidential, and shall not be disclosed or copied by Customer without the prior written consent of the Service Provider. Confidential Information does not include information that is:

- (i) in the public domain without any breach of these Terms by Customer;
- (ii) Already known to Customer at the time of disclosure; or
- (iii) rightfully obtained by Customer on a non-confidential basis from a third party.

(b) Customer agrees to use the Confidential Information only to make proper use of the Services and Deliverables.

(c) Service Provider shall be entitled to injunctive relief for any violation of this Section, in addition to any other rights and remedies that may be at its disposal (without need to post a bond or other form of security).

11. Service Provider Representations and Warranties. Service Provider represents and warrants to Customer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote commercially reasonable resources to meet its obligations under this Agreement.

12. Disclaimer of Warranties. **EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 11 ABOVE, SERVICE PROVIDER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**



13. Limitation of Liability.

(a) IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO SERVICE PROVIDER PURSUANT TO THE APPLICABLE ORDER CONFIRMATION IN THE ONE-YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

14. Termination. In addition to any remedies that may be provided under this Agreement, Service Provider may terminate this Agreement with immediate effect upon written notice to Customer, if Customer:

- (a) fails to pay any amount when due under this Agreement;
- (b) has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part; or
- (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

15. Waiver. No waiver by Service Provider of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Service Provider. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

16. Force Majeure. The Service Provider shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any



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term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Service Provider including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of 120 days, Customer shall be entitled to give notice in writing to Service Provider to terminate this Agreement.

17. Assignment. Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.

18. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

19. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

20. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the Commonwealth of Virginia without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Virginia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.

21. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Virginia, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.



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22. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth in the Order Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

23. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

24. Survival. Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Sections 1, 7, 8, 9, 10, 12, 13, 20, 21, 22, 23, 23, 26 and 27.

25. Amendment and Modification. This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each party.

26. Indemnification. Customer hereby agrees to indemnify, defend and hold harmless Service Provider and its affiliates, and their respective stockholders, members, partners, managers, directors, officers, employees, consultants, advisors, agents and representatives from and against any and all claims, actions, causes of action, proceedings, investigations, obligations, liabilities, losses, damages, penalties, fines, fees, costs and expenses whatsoever (including attorney's fees) arising from, relating to or otherwise in connection with (a) any breach of this Agreement by or on behalf of Customer and (b) any acts or omissions by or on behalf of Customer in connection with this Agreement or its subject matter.

27. Publication. Customer may publish or disclose information regarding the Services and shall acknowledge the support of Service Provider in all such publications. Customer shall not use the name of Service Provider in any advertising or publicity without Service Provider's prior written approval.



Exhibit B - Product Passthrough Terms – Google Apps for Work (for Customers)

Customer has entered into a certain written agreement (the “Agreement”) pursuant to which Customer has purchased the right to access and use the Product. These Product Passthrough Terms set forth the terms and conditions under which Customer may access and use such Product.

1. Product.

1.1 Facilities and Data Transfer. All facilities used to store and process Customer Data will adhere to reasonable security standards no less protective than the security standards at facilities where Provider stores and processes its own information of a similar type. Provider has implemented at least industry standard systems and procedures to ensure the security and confidentiality of Customer Data, protect against anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access to or use of Customer Data. As part of providing the Product, Provider may transfer, store and process Customer Data in the United States or any other country in which Provider or its agents maintain facilities. By using the Product, Customer consents to this transfer, processing and storage of Customer Data.

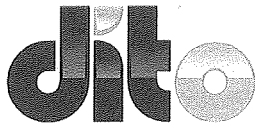
1.2 Modifications.

a. To the Product. Provider may make commercially reasonable changes to the Product, from time to time. If Provider makes a material change to the Product, Customer may be informed of such change, provided that Customer has subscribed with Provider to be informed about such change.

b. To URL Terms. Provider may make commercially reasonable changes to the URL Terms from time to time. If Provider makes a material change to the URL Terms, Customer may be informed of such change through the Notification Email Address or via the Admin Console. If the change has a material adverse impact on Customer and Customer does not agree to the change, Customer must so notify Partner or Provider via the Help Center within thirty days after receiving notice of the change. Upon such notification, Customer will remain governed by the URL Terms in effect immediately prior to the change until the end of the then-current term for the affected Product. If the affected Product is renewed, they will be renewed under Provider’s then current URL Terms.

1.3 Customer Domain Name Ownership. Prior to providing the Product, Provider or Partner may verify that Customer owns or controls the Customer Domain Names. If Customer does not own, or control, the Customer Domain Names, then Provider will have no obligation to provide Customer with the Product.

1.4 Federal Information Security Management Act (FISMA). The Provider’s Product known as “Google Apps Core Services” received a FISMA “Authorization to Operate” for a Moderate impact system. Provider will continue to maintain a System Security Plan (SSP) for the Google Apps Core



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Services, based on NIST 800-53 Rev. 3, or a similarly applicable standard. If Provider does not maintain this SSP as stated, Customer's sole and exclusive remedy, and Provider's entire liability, will be Customer's ability to terminate use of the Product upon thirty days prior written notice.

2. Customer Obligations.

2.1 Compliance. Customer will use the Product in accordance with the Acceptable Use Policy. Provider may make new applications, features or functionality for the Product available from time to time, the use of which may be contingent upon Customer's agreement to additional terms. In addition, Provider will make other Non-Google Apps Products (beyond the Product) available to Customer and its End Users in accordance with the Non-Google Apps Product Terms and the applicable product-specific Provider terms of service. If Customer does not desire to enable any of the Non-Google Apps Products, Customer can enable or disable them at any time through the Admin Console.

2.2 Customer Administration of the Product. Customer may specify one or more Administrators through the Admin Console who will have the rights to access Admin Account(s) and to administer the End User Accounts. Customer and Partner are responsible for: (a) maintaining the confidentiality of the password and Admin Account(s); (b) designating those individuals who are authorized to access the Admin Account(s); and (c) ensuring that all activities that occur in connection with the Admin Account(s) comply with these Product Passthrough Terms. Customer agrees that Provider's responsibilities do not extend to the internal management or administration of the Product for Customer and that Provider is merely a data-processor.

2.3 End User Consent. Customer's Administrators may have the ability to access, monitor, use, or disclose data available to End Users within the End User Accounts. Customer will obtain and maintain all required consents from End Users to allow: (i) Customer's access, monitoring, use and disclosure of this data and Provider providing Customer with the ability to do so, and (ii) Provider to provide the Product.

2.4 Unauthorized Use. Customer will use commercially reasonable efforts to prevent unauthorized use of the Product, and to terminate any unauthorized use. Customer or Reseller will promptly notify Provider of any unauthorized use of, or access to, the Product of which it becomes aware.

2.5 Restrictions on Use. Unless Provider specifically agrees in writing, Customer will not, and will use commercially reasonable efforts to make sure a third party does not: (a) sell, resell, lease, or the functional equivalent, the Product to a third party (unless expressly authorized in these Product Passthrough Terms); (b) attempt to reverse engineer the Product or any component; (c) attempt to create a substitute or similar service through use of, or access to, the Product; (d) use the Product for High Risk Activities; or (e) use the Product to store or transfer any Customer Data that is controlled for export under Export Control Laws. Customer is solely responsible for any applicable compliance with HIPAA.

2.6 Third Party Requests. Customer is responsible for responding to Third Party Requests. Provider will, to the extent allowed by law and by the terms of the Third Party Request: (a) promptly notify



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Customer of its receipt of a Third Party Request; (b) comply with Customer's reasonable requests regarding its efforts to oppose a Third Party Request; and (c) provide Customer with the information or tools required for Customer to respond to the Third Party Request. Customer will first seek to obtain the information required to respond to the Third Party Request on its own, and will contact Provider only if it cannot reasonably obtain such information.

3. Technical Support Services.

3.1 By Customer. Customer or Partner will, at its own expense, respond to questions and complaints from End Users or third parties relating to Customer's or End Users' use of the Product. Customer or Partner will use commercially reasonable efforts to resolve support issues before escalating them to Provider.

3.2 By Provider. If Customer or Partner cannot resolve a support issue consistent with the above, then Customer or Partner (as applicable based on the agreement between Provider and Partner) may escalate the issue to Provider in accordance with the TSS Guidelines. Provider will provide TSS to Customer or Partner (as applicable) in accordance with the TSS Guidelines.

4. Suspension.

4.1 Of End User Accounts by Provider. If Provider becomes aware of an End User's violation of these Product Passthrough Terms, then Provider may specifically request that Customer Suspend the applicable End User Account. If Customer fails to comply with Provider's request to Suspend an End User Account, then Provider may do so. The duration of any Suspension by Provider will be until the applicable End User has cured the breach which caused the Suspension.

4.2 Emergency Security Issues. Notwithstanding the foregoing, if there is an Emergency Security Issue, then Provider may automatically Suspend the offending use. Suspension will be to the minimum extent and of the minimum duration required to prevent or terminate the Emergency Security Issue. If Provider Suspends an End User Account for any reason without prior notice to Customer, at Customer's request, Provider will provide Customer the reason for the Suspension as soon as is reasonably possible.

5. Confidential Information.

5.1 Obligations. Customer and Provider will: (a) protect the other's Confidential Information with the same standard of care it uses to protect its own Confidential Information; and (b) not disclose the Confidential Information, except to Affiliates, employees and agents who need to know it and who have agreed in writing to keep it confidential. Customer and Provider (and any Affiliates, employees and agents to whom it has disclosed Confidential Information) may use Confidential Information only to exercise rights and fulfill its obligations under these Product Passthrough Terms, while using reasonable care to protect it. Customer and Provider, respectively, will be responsible for any actions of its Affiliates, employees and agents in violation of this Section.



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5.2 Exceptions. Confidential Information does not include information that: (a) the recipient of the Confidential Information already knew; (b) becomes public through no fault of the recipient; (c) was independently developed by the recipient; or (d) was rightfully given to the recipient by a third party.

5.3 Required Disclosure. Customer and Provider may disclose the other's Confidential Information when required by law but only after it, if legally permissible: (a) uses commercially reasonable efforts to notify the other; and (b) gives the other the chance to challenge the disclosure.

6. Intellectual Property Rights; Brand Features.

6.1 Intellectual Property Rights. Except as expressly set forth herein, these Product Passthrough Terms does not grant either Customer or Provider any rights, implied or otherwise, to the other's content or any of the other's intellectual property. As between the Customer and Provider, Customer owns all Intellectual Property Rights in Customer Data, and Provider owns all Intellectual Property Rights in the Product.

6.2 Display of Brand Features. Provider may display those Customer Brand Features authorized by Customer (such authorization is provided by Customer uploading its Brand Features into the Product), and within designated areas of the Service Pages. Customer may specify the nature of this use using the Admin Console. Provider may also display Provider Brand Features on the Service Pages to indicate that the Product are provided by Provider. Neither party may display or use the other party's Brand Features beyond what is allowed in these Product Passthrough Terms without the other's prior written consent.

6.3 Brand Features Limitation. Any use of Brand Features will inure to the benefit of the entity holding Intellectual Property Rights in those Brand Features. Any right to use its Brand Features pursuant to these Product Passthrough Terms may be revoked at any time with written notice to the other and a reasonable period to stop the use.

7. Publicity. Customer agrees that Provider may include Customer's name or Brand Features in a list of Provider customers, online or in promotional materials. Customer also agrees that Provider may verbally reference Customer as a customer of the Provider's Product that is the subject of these Product Passthrough Terms.

8. Representations, Warranties and Disclaimers.

8.1 Representations and Warranties. Customer and Provider represent that each will comply with all laws and regulations applicable to its provision, or use, of the Product, as applicable (including applicable security breach notification law). Provider warrants that it will provide the Product in accordance with the applicable SLA.

8.2 Disclaimers. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A



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PARTICULAR USE AND NONINFRINGEMENT. PROVIDER MAKES NO REPRESENTATIONS ABOUT ANY CONTENT OR INFORMATION MADE ACCESSIBLE BY OR THROUGH THE PRODUCT. CUSTOMER ACKNOWLEDGES THAT THE PRODUCT IS NOT A TELEPHONY SERVICE AND THAT THE PRODUCT IS NOT CAPABLE OF PLACING OR RECEIVING ANY CALLS, INCLUDING EMERGENCY PRODUCT CALLS, OVER PUBLICLY SWITCHED TELEPHONE NETWORKS.

9. Term and Termination.

9.1 Term. The term for the Product will be as decided upon between Partner and Customer. These Product Passthrough Terms will remain in effect for the Term.

9.2 Termination for Breach. The Services may be suspended or terminated, if: (i) Customer is in material breach of these Product Passthrough Terms and fails to cure that breach within thirty days after receipt of written notice; (ii) Customer ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety days; or (iii) Customer is in material breach of these Product Passthrough Terms more than two times notwithstanding any cure of such breaches.

9.3 Effects of Termination. If Services are terminated, then: (i) the rights granted by Provider to Customer, and Customer to Provider will cease immediately (except as set forth in this Section); (ii) neither Customer nor Partner will have access to, or the ability to export, the Customer Data; (iii) Provider will begin to delete Customer Data; and (iv) upon request will promptly use commercially reasonable efforts to return or destroy all other Confidential Information of the other.

10. Miscellaneous.

10.1 Product Development. The Product was developed solely at private expense and is commercial computer software and related documentation within the meaning of the applicable civilian and military federal acquisition regulations and any supplements thereto.

10.2 Force Majeure. Due to circumstances beyond Provider's controls, Provider may not be able to provide the Product.

10.3 No Waiver. Failure to enforce any provision of these Product Passthrough Terms will not constitute a waiver.

10.4 No Agency. These Product Passthrough Terms do not create any agency, partnership or joint venture.

10.5 No Third-Party Beneficiaries. There are no third-party beneficiaries to these Product Passthrough Terms. Customer's sole remedies will be set forth in its agreement with the Partner.

10.6 Survival. The following sections will survive expiration or termination of these Product Passthrough Terms: Sections 5, 6, 9.3, 10 and 12.



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10.7 Severability. If any term (or part of a term) of these Product Passthrough Terms is invalid, illegal, or unenforceable, the rest of these Product Passthrough Terms will remain in effect.

10.8 Conflicting Terms. If there is a conflict between any terms of these Product Passthrough Terms and any other document that makes up the entire agreement as needed for Customer to use the Product, the terms of these Product Passthrough Terms will take precedence.

11. Additional Product Terms.

11.1 Ads. Provider does not serve Ads in the Product or use Customer Data for Ads purposes.

11.2 Aliases. Customer is solely responsible for monitoring, responding to, and otherwise processing emails sent to the "abuse" and "postmaster" aliases for Customer Domain Names but Provider may monitor emails sent to these aliases for Customer Domain Names to allow Provider to identify Product abuse.

11.3 Google Apps Vault Retention. If Customer is using Google Apps Vault, Provider will have no obligation to retain any archived Customer Data beyond the retention period specified by Customer. If Customer does not renew Google Apps Vault, Provider will have no obligation to retain any archived Customer Data.

12. Definitions.

"Acceptable Use Policy" means the acceptable use policy for the Product available at http://www.google.com/a/help/intl/en/admins/use_policy.html. The Acceptable Use Policy and such URL link may be updated or modified by Provider from time to time.

"Admin Account(s)" means the administrative account(s) provided to Customer for the purpose of administering the Product. The use of the Admin Account(s) requires a password, which Provider will provide to Customer or Partner.

"Admin Console" means the online tool Customer may use in reporting and certain other administration functions.

"Administrators" mean the Customer-designated technical personnel who administer the Product to End Users on Customer's behalf.

"Ads" means online advertisements displayed by Provider to End Users, excluding advertisements provided by any advertising products that are not part of the Product that Customer chooses to use in connection with the Product.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with an entity.



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“Brand Features” means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured from time to time.

“Confidential Information” means information disclosed or exchanged under these Product Passthrough Terms that is marked as confidential or would normally be considered confidential under the circumstances. Customer Data is Customer’s Confidential Information.

“Customer Data” means data, including email, provided, generated, transmitted or displayed via the Product by Customer, End Users, or Partner on behalf of Customer.

“Customer Domain Names” mean the domain names owned or controlled by Customer, which will be used in connection with the Product.

“Emergency Security Issue” means either: (a) Customer’s use of the Product in violation of the Acceptable Use Policy, which could disrupt: (i) the Product; (ii) other customers’ use of the Product; or (iii) the Provider network or servers used to provide the Product; or (b) unauthorized third party access to the Product.

“End Users” means the individuals Customer permits to use the Product.

“End User Account” means a Provider-hosted account established by Customer through the Product for an End User.

“Export Control Laws” means all applicable export and reexport control laws and regulations, including trade and economic sanctions maintained by the Treasury Department’s Office of Foreign Assets Control, and the International Traffic in Arms Regulations (“ITAR”) maintained by the Department of State.

“Google Apps Core Services” means the applicable Product purchased by Customer from Partner which are more fully described here: http://www.google.com/a/help/intl/en/users/user_features.html. The Google Apps Core Services and such URL link may be updated or modified by Provider from time to time.

“Help Center” means the Provider help center accessible at <http://www.google.com/support/>. The Help Center and such URL link may be updated or modified by Provider from time to time.

“High Risk Activities” means uses such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of the Product could lead to death, personal injury, or environmental damage.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as may be amended from time to time, and any regulations issued thereunder.

“Intellectual Property Rights” means current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and other similar rights.



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“Non-Google Apps Products” means Provider products which are not part of the Product, but which may be accessed by End Users using their End User Account login and password. The Non-Google Apps Products are set forth at the following URL:

<http://www.google.com/support/a/bin/answer.py?hl=en&answer=181865>. The Non-Google Apps Products and such URL link may be updated or modified by Provider from time to time.

“Non-Google Apps Product Terms” means the terms found at the following URL:

http://www.google.com/apps/intl/en/terms/additional_services.html. The Non-Google Apps Product Terms and such URL link may be updated or modified by Provider from time to time.

“Notification Email Address” means the email address designated by Customer to receive email notifications from Provider. Customer may provide a Partner email address for this purpose if it so chooses. Customer may change this email address through the Admin Console.

“Provider” means the third party provider of the Product.

“Partner” means the entity Customer is paying to provide access to and use of the Product.

“Service Pages” mean the web pages displaying the Product to End Users.

“Product” means, as applicable, the Google Apps Core Services purchased from Partner.

“SLA” means the Service Level Agreement located here for applicable Google Apps Core Services: http://www.google.com/apps/intl/en/terms/reseller_sla.html. The SLA and such URL link may be updated or modified by Provider from time to time.

“Suspend” means the immediate disabling of access to the Product, or components of the Product, as applicable, to prevent further use of the Product.

“Term” means the term of these Product Passthrough Terms, which will continue for as long as Customer is receiving Product from Provider, unless terminated earlier pursuant to these Product Passthrough Terms, or pursuant to Customer’s agreement with Partner.

“Third Party Request” means a request from a third party for records relating to an End User’s use of the Product. Third Party Requests can be a lawful search warrant, court order, subpoena, other valid legal order, or written consent from the End User permitting the disclosure.

“TSS” means the technical support Product provided by Provider to the Administrators during the Term pursuant to the TSS Guidelines.

“TSS Guidelines” means Provider’s technical support Product guidelines then in effect for the Product. TSS Guidelines are at the following URL: <http://www.google.com/a/help/intl/en/admins/tssg.html>. The TSS Guidelines and such URL link may be updated or modified by Provider from time to time.

“URL Terms” means the Acceptable Use Policy, the SLA and the TSS Guidelines.

Renewal of Google Enterprise License Agreement

Finance & Governance Committee

April 27, 2021

Gary Krumian, IT Business Analyst

That the Finance and Governance Committee recommend that the City Council

Approve the Second Amendment of Software License Agreement A-7916 with Dito LLC for the purpose of renewing the City's Google Enterprise Licenses for another five years in the amount of \$780,600 plus another \$250,000 for additional user licenses as needed

- Google systems implemented at Police department in 2013 to replace problematic legacy systems
- City-wide adoption of Google services in 2016 with approximately 1,400 user licenses
- Council approved another 3 years of Google services in May 2018 with Dito LLC, our Google resale partner

- New ERP system will increase need for additional licenses
- Renewal is for 1,500 licenses for the next five years
- Five year total cost of licenses is \$780,600
- Staff requests another \$250,000 approval for additional licenses and services as required
- Total five year authorization of \$1,030,600
- Funds for this expenditure are budgeted into the IT Department's annual budget

That the Finance and Governance Committee recommend that the City Council

Approve the Second Amendment of Software License Agreement A-7916 with Dito LLC for the purpose of renewing the City's Google Enterprise Licenses for another five years in the amount of \$780,600 plus another \$250,000 for additional user licenses as needed



QUESTIONS



FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT
REPORTS
AGENDA ITEM NO. C.2

DATE: April 27, 2021

TO: Finance & Governance Committee

FROM: Raja Bamrungpong, Interim Information Technology Director, (805) 385-7554,
raja.bamrungpong@oxnard.org

SUBJECT: Purchase of Computer Equipment from Compuwave.

RECOMMENDATION

That the Finance and Governance Committee recommend that the City Council:

1. Approve and authorize the Mayor to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 1; and
2. Approve and authorize the City Manager to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 2.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/-1vpfVjc-UQ>

BACKGROUND

The IT Department replaces outdated computer hardware throughout City facilities. Obsolete computer equipment creates security issues and decreased staff productivity. The department manages approximately \$4.25 million worth of computer equipment, comprising of networking gear such as firewalls and switches, as well as office computing gear such as desktop and laptop computers. The industry standard for computer equipment replacement is typically three years for personal computers and five years for networking equipment. The City's Administrative Manual Section B:10 refers to this general replacement schedule as well.

The IT staff recently adopted a five-year replacement schedule for all equipment. Until now, we were replacing laptops and desktops every five to ten years. This three- to five-year schedule is in line with neighboring municipalities' replacement programs. This schedule is based on certain technical advancements such as the City's use of cloud computing and better life cycle management techniques. Annual variances in the amount spent replacing obsolete equipment will occur, again due to some of the enhancements described above, but it is imperative that the City adopt and fund this IT replacement schedule to ensure reliability, security and productivity.

DISCUSSION

For several years, the City has been using the joint purchase agreement between Compuwave and the County of Ventura Master Agreement. Staff continuously checks pricing from various sources, and in most instances Compuwave provides pricing on the order of approximately ten percent less than other vendors who actively participate in State or national buying agreements. Compuwave delivers quality equipment and also provides services such as imaging and storage for no or minimal additional cost.

Over the past five years, the City's expenditure for computers purchased from Compuwave has averaged \$261,000 per year. For the current 2020-21 fiscal year, the City has purchased \$287,000 from the vendor. The amounts purchased from Compuwave in prior years are:

FY 2019-20, \$263,706

FY 2018-19, \$167,235

FY 2017-18, \$372,006

FY 2016-17, \$213,521

The IT Department would like to continue using this vendor for the City's computer hardware needs and is requesting a blanket purchase order in the amount of \$500,000 per year for two years. This annual amount will likely not be used in its entirety, but the amount is based on the expected annual replacement needs on the new schedule as well as to allow for unexpected purchases in times of crisis.

STRATEGIC PRIORITIES

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

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

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

FINANCIAL IMPACT

This blanket purchase order will not require additional expenditures above those approved in the adopted budget. Items purchased will be charged and should not exceed authorized budget or appropriations in the Information Technology Fund and operating department budgets.

Prepared by: Gary Krumian, Programmer Analyst

ATTACHMENTS

1. PO 8022 CompuWave BPO
2. Compuwave Finance Committee Presentation 4_27_21



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

**PURCHASE
ORDER NO.
008022**

DATE: 3/11/2021

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

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

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
03/10/2021		0000005347	03/10/2021	BOB LANDMAN, GENERAL MANA	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		73173018528209		DANIEL WILLHITE	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

1	BLANKET PO FOR COMPUTER REPLACEMENT		
1.00 / DL		1.0000	1.00

TOTAL PURCHASE AMOUNT

\$1.00

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

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

AUTHORIZED SIGNATURE. _____

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

PURCHASE ORDERS
TERMS AND CONDITIONS

The City Purchasing Officer and the Vendor agree as follows:

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

ADDITIONAL REQUIREMENTS FOR GRANT-FUNDED PROJECTS

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

Purchase of Computer Equipment from Compuwave

Finance & Governance Committee

April 27, 2021

Gary Krumian, IT Business Analyst

That the Finance and Governance Committee recommend that the City Council

1. Approve and authorize the Mayor to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 1; and
1. Approve and authorize the City Manager to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 2

- IT Department supports \$4.25 million of computer and networking hardware throughout the City
- Obsolete computer equipment creates security issues and decreased staff productivity
- Industry standard for computer equipment life cycle is typically 5 years - inline with the City's neighboring municipalities

- The County of Ventura has maintained a purchase agreement with Compuwave for several years and the City has used this agreement for almost a decade
- IT Department staff continuously checks pricing from various sources to ensure competitive pricing
- Compuwave's prices are consistently advantageous to the City and vendor also provides value-added services such as warehousing and imaging services for no or minimal additional cost

Over the past five years, City has annually purchased an average of \$261,000 of computer hardware from Compuwave

FY 2020-21	FY 2019-20	FY 2018-19	FY 2017-18	FY 2016-17
\$287,101.44	\$263,705.56	\$167,235.71	\$372,006.60	\$213,520.62

- Staff is requesting a blanket purchase order in the amount of \$500,000 per year for two years
- This amount will allow for scheduled replacements and cover unforeseeable needs in times of crisis - both man-made and natural
- This purchase order will not require additional expenditures above those approved in the adopted budget. Items purchased will be charged to authorized appropriations in the Information Technology and operating department budgets

That the Finance and Governance Committee recommend that the City Council

1. Approve and authorize the Mayor to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 1; and
1. Approve and authorize the City Manager to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 2



QUESTIONS



**FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT
REPORTS
AGENDA ITEM NO. C.3**

DATE: April 27, 2021

TO: Finance & Governance Committee

FROM: Steve Naveau, Human Resources Director, (805) 385-7947, steve.naveau@oxnard.org

SUBJECT: Agreement No. A-8319 with George Hills Company, Inc. for liability claims administration and adjustment services.

RECOMMENDATION

That the Finance and Governance Committee recommend that City Council approve Agreement No. A-8319 with George Hills Company, Inc. in an amount not to exceed \$1,084,182 for liability claims administration and adjustment services over a five-year term.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/i3o996gkAhE>

BACKGROUND

Liability claims management is the process of tracking, controlling and resolving claims for damages brought against the City by third parties. Some examples of damages include slip and fall claims, property damage or vehicle damage claims, pothole claims, police liability, and dangerous conditions of public property. Liability claims management includes investigative, adjustment, administrative, subrogation, and legal support services. The City's current agreement with its third party administrator (TPA) for liability claims, Sedgwick, expires on June 30, 2021, after a five-year term.

DISCUSSION

In January 2021, a request for proposal (RFP) was issued and advertised on the City's website, posted on PublicPurchase.com, and distributed directly to ten firms known to perform this work in the State of California. The City received a total of five proposals. Based upon the criteria identified in the RFP, an interdepartmental panel of employees from the City Attorney's Office and Human Resources Department performed a thorough review of the written proposals and conducted oral interviews of the top three candidates. George Hills Company, Inc. was ultimately selected as the most qualified to perform the work due to its overall responsiveness to the RFP, the demonstrated experience and ability of its staff, the firm's operating philosophy, and its value-added services. George Hills Company, Inc. also provided a competitive cost proposal, with four of the five top-ranked firms providing very similar pricing. This agreement would be for a five-year term at the following estimated amounts per year:

FY 21-22: \$ 212,900*

FY 22-23:	208,600
FY 23-24:	214,626
FY 24-25:	220,832
<u>FY 25-26:</u>	<u>227,224</u>
Total	\$1,084,182

* Includes first year start-up costs of \$10,000

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact at this time. This agreement will begin July 1, 2021 and is included as part of the FY 2021-22 Recommended Budget of the Public Liability Fund-701. Funding for subsequent fiscal years will be included in the annual budget process.

Prepared by: Mike More, Human Resources Manager

ATTACHMENTS

1. Professional Services Agreement George Hills A-8319 vfl
2. FGC Presentation Liability TPA 4-27-21 V2

**AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2021
- (2) Consultant: George Hills Company, Inc.
- (3) Services: Liability claims administration and adjustment services.
- (4) Schedule of Services: Ongoing third party administration services over a 5-year term.
- (5) Agreement Ending Date: June 30, 2026
- (6) Total Agreement Amount: \$1,084,182
- (7) City's Project Manager: Human Resources Manager
- (8) Consultant's Project Manager: John Chaquica, CEO
- (9) Insurance Coverage: INS-A
- (10) Addresses for Notice:

FOR CONSULTANT:

George Hills Company, Inc.
John Chaquica, CEO
P.O. Box 278
Rancho Cordova, CA 95741

FOR CITY:

City of Oxnard
Human Resources Manager
300 West Third Street, 1st Floor
Oxnard, CA 93030

- (11) Contact Emails:

CONSULTANT'S PROJECT MANAGER:
John.Chaquica@georgehills.com

CITY'S PROJECT MANAGER:
mike.more@oxnard.org

The Agreement for Professional Services is attached hereto and incorporated herein by this reference. The following exhibits are also attached hereto and incorporated herein by this reference into the Agreement:

- ☒ Scope of Services Exhibit A
- ☒ Rates and Costs Exhibit B
- ☒ Insurance Exhibit (INS-A)

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is entered into in Ventura County, California, on the date that is written as "(1) Agreement Start Date" on the Cover Page, which is attached hereto and incorporated herein by this reference. This Agreement is entered by and between the City of Oxnard ("City") and the person or entity listed as "(2) Consultant" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Consultant shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Consultant shall provide the Services during the term of this Agreement, as set forth below, according to the schedule written as "(4) Schedule of Services" on the Cover Page, and as further explained in the Scope of Services Exhibit, which is attached hereto and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and any incorporated document(s), the terms of this Agreement shall control.
2. Standard of Performance. Consultant shall undertake and complete the Services to conclusion using the standard of care, skill and diligence normally provided by a professional person in the performance of similar consulting services.
3. Correction of Errors. Consultant shall correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.
4. Term. This Agreement shall begin on the date that is written as "(1) Agreement Start Date" on the Cover Page and shall end on the date that is written as "(5) Agreement Ending Date" on the Cover Page. Time is of the essence in this Agreement.
5. Compensation. For the Services performed during the term of this Agreement, City shall pay Consultant an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in Rates and Costs Exhibit shall be in effect through the end of this Agreement. Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services.
6. Invoices. Consultant shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Each invoice must also list the current balance on the Agreement, including that invoice, as well as the months remaining on the term of the Agreement. Invoices may be emailed to: invoices@oxnard.org.
7. Acceptance of Payment. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services which are the subject of this Agreement. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontractors. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.
8. Non-Appropriation of Funds. Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion. In the event that the City does not appropriate sufficient funds for payment beyond the

current fiscal year, City shall provide notice to Consultant as soon as reasonably possible but in no event less than ninety (90) days before the end of the then current fiscal year.

9. Coordination of Services. The Services shall be coordinated with the person in the position listed in “(7) City’s Project Manager” on the Cover Page, subject to the direction of the City Manager and Department Director. Consultant hereby designates the person in the position listed in “(8) Consultant’s Project Manager” on the Cover Page as the person responsible for the Services who shall coordinate with City’s Project Manager in making binding decisions in line with this Agreement on behalf of Consultant.

10. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform the Services. Any person who performs engineering services pursuant to this Agreement shall be licensed as a Civil Engineer by the State of California and in good standing. Consultant shall make reasonable efforts to maintain the continuity of Consultant’s staff who are assigned to perform the Services. Consultant may associate with or employ associates or subcontractors in the performance of the Services, but at all times shall Vendor be responsible for its associates and subcontractors’ labor, advice or materials provided in furtherance of providing the Services. Should any of Consultant’s employees, assigns or subcontractors not conduct him- or herself appropriately, as determined by the City’s Project Manager, in the process of providing the Services or any portion thereof, the City’s Project Manager may notify the Consultant’s Project Manager, who shall immediately handle the problem, as determined appropriate by him or her, such that the problem does not persist.

11. Additional Work. City may request additional specified work under this Agreement. The City’s Project Manager must authorize all such work in writing before commencement. Consultant shall perform such work, and City shall pay for such additional work, in accordance with Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Consultant shall submit a quote for all additional work, which the City’s Project Manager must approve in writing before any such work may commence. The City shall compensate Consultant for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Consultant did not obtain the City’s Project Manager’s written approval before work commenced, as determined by the City’s Project Manager in his or her sole discretion.

12. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement. Consultant shall include a copy of this Section 12 in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City. Preservation by electronic means of all such records is sufficient to meet the requirements of this Agreement.

13. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon ninety (90) days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then ninety (90) calendar days from the date of delivery or mailing of such notice. Consultant may terminate this Agreement at any time, with or without cause and without penalty, upon ninety (90) days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then ninety (90) calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed, to the best of Consultant’s ability, before the date of termination. In the event of termination of this Agreement by either party due to no fault or failure of performance by Consultant, City shall pay Consultant compensation for all Services satisfactorily completed in accordance with all of the terms and provisions of this Agreement, as determined by the City, before the effective date of termination; provided, in no event shall the Consultant receive an amount exceeding that which would have been paid to Consultant for the full performance of the Services.

14. Hold Harmless, Defense and Indemnity.

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying (“design professional”) services, to the maximum extent permitted by law, Consultant shall hold harmless, defend, and indemnify City, its legislative and advisory bodies, and the City’s officials, directors, officers, employees, and agents (collectively, “Indemnitees”) from and against any and all claims, demands, causes of action, damages, injuries, liabilities, losses, penalties, fines, judgments, costs or expenses, including reimbursement of attorneys’ fees, court costs and costs of alternative dispute resolution, including but not limited to those relating to death or injury to any person and injury to any property (collectively, “Claims”), to the extent that the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or of any of its officers, employees, subcontractors or agents in the performance of the Agreement or in the failure to comply with any of the obligations contained in this Agreement. Consultant’s obligation to defend is a separate and distinct obligation from Consultant’s duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, to the extent required herein immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

If Consultant provides no “design professional” services, to the maximum extent permitted by law, Consultant shall hold harmless, defend and indemnify the Indemnitees from and against any and all Claims, which arise out of, pertain to, or relate to any negligent, reckless or willful act or omission of Consultant in the performance of this Agreement, or the failure to comply with any of the obligations contained in this Agreement, by Consultant or of any of its officials, directors, officers, employees, subcontractors, or agents. Consultant’s obligation to defend is a separate and distinct obligation from Consultant’s duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

In any case or claim wherein Consultant is named in a filed or verified complaint solely because Consultant is the claims administration firm on a given claim and there are no allegations of misconduct on the part of Consultant, the City will defend Consultant, at no cost to Consultant. City will defend, indemnify, and hold harmless Consultant, to the same extent as described in the immediately preceding paragraph of this Agreement, from and against all claims, demands, actions, or causes of action, which may arise, from the actions or omissions of the City.

b. The review, acceptance or approval of Consultant’s work or work product by any of the Indemnitees shall not affect, relieve or reduce Consultant’s indemnification or defense obligations. This Section 14 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 14 shall not be restricted by and does not affect the provisions of this Agreement relating to insurance.

15. Insurance. Consultant shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within the insurance document stated in “(9) Insurance Coverage” on the Cover Page and in the Insurance Exhibit, which is attached hereto and incorporated herein by this reference, unless the City’s Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, before performance of any Services, file with the City’s Risk Manager evidence of insurance coverage as specified in “(9) Insurance Coverage” on the Cover Page and in the Insurance Exhibit. Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant’s failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement. In the event Consultant receives notice of cancellation from an insurer of any of the insurance required under this agreement, Consultant will provide City written notice of such pending cancellation within five (5) business days of receipt of such notice from the insurer. Consultant shall use all reasonable efforts to remedy the cause of such cancellation notice, or will find replacement insurance meeting the requirements of this Agreement, and shall provide City with written notice that such cancellation has been rescinded, or shall provide a new Certificate of Insurance evidencing the replacement insurance, prior to the date the pending cancellation was to become effective, such that no lapse in the required insurance shall occur.

16. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Consultant pursuant to this Agreement (“Documents and Materials”) shall be the City’s property without restriction or limitation upon its use, duplication or dissemination. All Documents and Materials shall be considered “works made for hire,” and all Documents and Materials and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Consultant shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Consultant hereby assigns to the City all ownership and any and all intellectual property rights to the Documents and Materials that are not otherwise vested in the City pursuant to this Section 16.

b. Consultant shall deliver all Documents and Materials to City’s Project Manager upon completion of the Services or termination of this Agreement without additional cost or expense to the City. Additionally, anytime at City’s request, City shall be entitled to possession of, and Consultant shall furnish to City’s Project Manager within 10 calendar days, any or all of the Documents and Materials without additional cost or expense to the City. In both situations, if Consultant prepares Documents and Materials on a computer, Consultant shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Consultant may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination of these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

c. Any substantive modification of the Documents and Materials by City staff or any use of the completed Documents and Materials for other City projects, or any use of incomplete Documents and Materials, without the written consent of Consultant, shall be at City’s sole risk and without liability or legal exposure to Consultant.

d. Consultant warrants and represents that it has secured all necessary licenses, consents or approvals to use any instrumentality, thing or component as to which any intellectual property right exists, including computer software, used in the rendering of the Services and the production of all Documents and Materials, and that the City has full legal title to and the right to use, duplicate or disseminate the Documents and Materials. Consultant shall defend, indemnify and hold Indemnitees harmless from any loss, claim or liability in any way related to a claim arising out of acts or omissions of Consultant in the creation, storage, or maintenance of said Documents and Materials, that City’s use of any of the Documents and Materials is violating federal, state or local laws, any contractual provisions, or any laws relating to trade names, licenses, franchises, copyrights, patents or other means of protecting intellectual property rights and/or interests in products or inventions. Consultant shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked documents, materials, equipment, devices or processes in connection with its provision of the Services and Documents and Materials. In the event the use of any of the Documents and Materials by the City is held to constitute an infringement, as a result of any acts or omissions by Consultant, and the use of any of the same is enjoined, Consultant, at its own expense, shall: secure for City the right to continue using the Documents and Materials by suspension of any injunction, or by procuring a license or licenses for City; or modify the Documents and Materials so that they become non-infringing while remaining in compliance with the requirements of this Agreement.

e. This Section 16 shall survive the termination of this Agreement.

17. Confidentiality of Information.

a. For the purposes of this Agreement, “Confidential Information” means all information, in whatever form transmitted, relating to the past, present or future business affairs of the City, including without limitation, (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, inventions, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulas; or (ii) non-technical information, including without limitation finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data and any other

information belonging to the City or to a third party whose information is in the City's possession or control under obligations of confidentiality, and which is disclosed to Consultant or is developed by Consultant in whole or in part at the City's expense.

b. All Documents and Materials shall be considered Confidential Information and shall not be reproduced, transmitted, disclosed or used by the Consultant without the written consent of the City, except as may be necessary for Consultant to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Consultant at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Consultant, (ii) is communicated to a third party with the express written consent of City and is not subject to restrictions on further use or disclosure, (iii) is independently developed by Consultant and has no relation to this Agreement, or (iv) is required by law, court order, court-issued subpoena or other legal process to be disclosed; provided, however, that before making such disclosure, Consultant shall immediately provide City with written notice and a reasonable opportunity for City to object to the disclosure or to take action to maintain the confidentiality of the information, unless such prior disclosure is legally impermissible.

d. Consultant shall use reasonable care to protect the Confidential Information. In the event of a breach or threatened breach of this Agreement by Consultant, City shall be entitled to obtain an injunction prohibiting any such breach. Any relief granted by a court shall be in addition to and not in lieu of any other legal or equitable relief, including money damages. The parties acknowledge that Confidential Information is valuable and unique and that disclosure of the Confidential Information in breach of this Agreement may result in irreparable injury to the City.

e. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 17 shall survive the termination of this Agreement.

18. Independent Contractor. Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as Consultant wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Consultant shall perform for the City. Except as City's Project Manager specifies in writing, Consultant and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all legally required taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement to the extent required by law. Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to Consultant under this Agreement any amount due to City from Consultant as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section 18.

19. Nondiscriminatory Employment. Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section 19.

20. Consultant's Representations. Consultant represents, covenants and guarantees that: a) Consultant is licensed, qualified, and capable of furnishing the labor, materials, and expertise necessary to perform the Services in accordance with the terms and conditions set forth in this Agreement; b) there are no obligations, commitments, or impediments of any kind that will limit or prevent Consultant's full performance under this Agreement; c) to the extent required by the standard of practice, Consultant has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

21. Compliance with Laws. In performing the Services under this Agreement, Consultant shall comply with all applicable laws, ordinances and regulations. Before providing any Services under this Agreement, Consultant shall, at its own expense, obtain and maintain all required certificates, licenses and permits, including a City business tax certificate.

22. Conflict of Interest. If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a "governmental decision" as described in Title 2, Section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement. Furthermore, Consultant shall not accept any employment or representation during the term of this Agreement or within 12 months after completion of the Services which is or may likely make Consultant "financially interested," as provided in California Government Code Sections 1090 and 87100, in any decisions made by City on any matter in connection with which Consultant has been retained pursuant to this Agreement.

23. Fictitious Name. If Consultant has a fictitious name, Consultant shall submit to City a new Fictitious Business Name Statement approved by any California county before Consultant's prior Fictitious Business Name Statement expires if such expiration may occur during the term of this Agreement, including any term amendment.

24. Non-Assignability. This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's personnel's unique competence, experience and specialized personal knowledge. Consultant shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City's prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and Consultant shall hold harmless, defend and indemnify Indemnites from and against all Claims arising from or relating to any unauthorized assignment.

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

26. Applicable Law; Venue. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Agreement shall be in the Ventura County Superior Court.

27. Titles. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

28. Force Majeure. Neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not be limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters.
29. Authority. Any person executing this Agreement on behalf of Consultant warrants and represents that s/he has the authority to execute this Agreement on behalf of Consultant and to bind it to the performance of these obligations.
30. Binding Agreement. The parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.
31. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Consultant regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.
32. Construction. In the event of any asserted ambiguity in or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of construction providing for interpretation against the party who causes the uncertainty to exist or who drafted the Agreement in whole or in part.
33. No Waiver. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.
34. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other relief to which that party may be entitled, in any legal action or other proceeding, including an action for declaratory relief, for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement.
35. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received—on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(10) Addresses for Notice" on the Cover Page or at such other address as one party may notify the other in writing.
36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to Project Managers' emails listed in "(11) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.
37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date that is written as "(1) Agreement Start Date" on the Cover Page.

CITY OF OXNARD

George Hills Company, Inc.

John C. Zaragoza, Mayor¹ Date

John Chaquica, CEO Date

Chris Shaffer, Vice President Date

ATTEST:

Rose Chaparro, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney Date

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

EXHIBIT A SCOPE OF SERVICES

This Exhibit A is intended to provide the scope of services and specific service expectations in the Agreement for Professional Services, that would not otherwise require revision during the contract period, and which may differ from or elaborate upon our City Service Profile. Services to be provided by Consultant on behalf of City's includes the following:

I. SERVICES INCLUDED IN THE CONTRACT

A. General Administrative Services

Throughout each year Consultant performs numerous functions which support claims administration on behalf of the City, but do not include any claims handling, and are performed by non-claims personnel. Additionally, in the first year of a new City there are several "on-boarding" services that are general and administrative in nature. Below is a list of such services which are included within the terms of this Agreement:

- 1) Access to Content Management Interoperability Services ("CMIS") and training.
- 2) A monthly listing of open claims, showing expense categories, reserves, and total incurred.
- 3) Monthly claim summary reports.
- 4) Providing loss run data and required reports.
- 5) Providing annual reports to outside agencies.
- 6) Filing of all regulatory reports and documents (such as 1099, W-9, etc.).
- 7) Establish and maintain a trust fund to pay indemnity and expenses that may be due on claims. The amount to be maintained in the trust fund shall be determined by City.
- 8) If the trust fund is not set-up with the Consultant preferred bank—California Bank & Trust, there may be an additional set-up fee (other banks processes can be extraordinarily time consuming).
- 9) New bank account set up (signature cards, test checks, online access, set up bank in CXP).
- 10) Discussion and agreement on the approval process.
- 11) Process checks weekly.
- 12) Submit positive pay if applicable/monitor positive pay (review daily emails from bank for exceptions).
- 13) Maintain a copy of all checks drawn by Consultant to pay claims and claims related expenses.
- 14) Submit monthly check registers of all transactions made for the period.
- 15) Monitor account balance, prepare replenishment requests as needed (customize request for each City's need).
- 16) Monthly bank reconciliation (prepared and sent to City).
- 17) Special reports that requested to go with billing invoices (by member, claim type, etc.).
- 18) Payment of invoices that are pass-throughs (i.e., invoices for medical record copies, ExamWorks, etc.).
- 19) Certificates of insurance as required by the Agreement.

B. Investigative Services

- 1) Receipt and examination of all reports of accidents or incidents that are or may be the subject of claims.
- 2) Investigate accidents or incidents as warranted, to include on-site investigation, photographs, witness interviews, determination of losses and other such investigative services necessary to determine all City losses but not to include extraordinary investigative services outside the expertise of Consultant.
- 3) In the event City or other agency conducts any investigation, and upon City's request, Consultant shall review and analyze for liability and/or damage issues and for possible additional follow-up investigation.
- 4) Maintain service on a 24-hour, 7 days per week basis, to receive reports of any incident or accident which may be the subject of a liability claim and provide immediate investigative services to the extent necessary to provide a complete investigation.
- 5) Undertake items of investigation requiring special handling for City at the direction of the City's Attorney or authorized representative.

C. Liability and Claim Handling Services

- 1) Promptly set up a claim file upon receipt of the claim and maintain a claim file on each potential or actual claim reported.
- 2) Assess and evaluate the nature and extent of each claim and establish claims reserves for indemnity and legal expense.
- 3) Consultant will follow any City policy regarding tort claim rejection instructions, including rejection and return of an untimely or insufficient claim.
- 4) Ensure timely tort claim handling, including contact and follow-up with claimants regarding claim issues and processing.
- 5) Any bodily injury claim that is being pursued shall be indexed. Notice only matters or precautionary bodily injury claims that are not pursued do not need to be indexed.
- 6) Determine the need for defense representation, recommend legal counsel, and support litigation activity.
- 7) Report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
- 8) Maintain records on any such claim and notify City and City's excess insurance carrier when City is about to exhaust its self-insured retention.
- 9) Obtain settlement contracts and releases upon settlement of claims or potential claims not in litigation.
- 10) Perform periodic reviews, as needed, of City files and claims as well as statutory requirements to ensure compliance including excess insurance-related requirements.
- 11) Perform the necessary data gathering for the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) and the Set Aside Contracts in compliance with Section 111 of the MMSEA including the required reporting. (*See Attachment B*)
- 12) To the extent there is privileged information or PHI shared between agencies, which is subject to protection under HIPAA, Consultant shall implement all necessary measures in compliance with the Act and will execute a Business Associates Agreement (BAA).

D. Litigation Support Services

- 1) Upon notification by the City that litigation has been filed on an open claim, Consultant shall follow the litigation referral process as outlined in the City Expressed Scope of Work Instructions form.

- 2) Work cooperatively with City in choosing outside counsel from approved panel, and assist defense counsel in on-going litigation defense efforts.
- 3) Obtain and maintain a Litigation Plan and Budget.
- 4) Review legal bills for compliance with Litigation Plan and Budget; Review, evaluate and adjust defense counsel invoices for legal services.
- 5) Cooperate with and assist defense counsel assigned to litigation of open claims and provide such investigative services as directed during pre-trial and trial stages.
- 6) Assist in responding to discovery or preparing discovery.
- 7) At the request of the City, attend mandatory settlement conferences on behalf of City.
- 8) Appear on behalf of City in small claims actions filed against City on open claims handled by Consultant.
- 9) Review and evaluate case evaluations, correspondence and status reports forwarded to Consultant by counsel. Regularly discuss, review, and direct investigation, discovery, and case strategy with counsel.
- 10) Cooperate with counsel as a team with an open communication approach on each case to obtain the most economical and best result for the City.

E. Reports and Procedures

- 1) Within thirty (30) days of assignment, or sooner if practicable, required, or requested, Consultant will provide City with a report pursuant to specified claims handling instructions, showing name(s) of claimant(s), type of claim, date of loss, comments on liability, reserve recommendations, settlement recommendations, and other pertinent information. Subsequent to the initial thirty (30) day report, Consultant will report as often as warranted by any important change in status but no longer than every ninety (90) days until the claim closes unless extended diary is appropriate.
- 2) All original reports, documents, and claim data of every kind or description, that are prepared in whole or in part by or for the Consultant in connection with this contract shall be City's property and constitute the Consultant's work product for which compensation is paid. A copy of all reports, documents, and claim data of every kind or description that is in whole or in part by or for the City is the property of Consultant. Additional copies of original reports, documents, and data requested by City will be at City's expense in accordance with this contract.
- 3) Consultant agrees that City have access and the right to audit and reproduce any of the Consultant's relevant records to ensure that the City is receiving all services to which the City is entitled under this Agreement or for any purpose relating to the Agreement.

F. Data

- 1) Utilize Consultant's claims management system—CXP (ClaimsXpress).
- 2) Record all claim information including all financial data.
- 3) Provide City and broker Read only on-line access to the claims data system (up to five users), if desired by City.
- 4) Provide monthly standard loss run and check register.
- 5) Provide annual claims data report upon request. Written authorization and/or a Business Associate Agreement may be required for confidential information protected by HIPAA.
- 6) Provide assistance to City in developing customized reports when requested (may require additional charge).
- 7) Arrange for electronic file conversion for any open and closed claims at the direction of City.

G. Claim Review Meetings

Consultant shall, on a mutually agreed periodic basis (but no less than quarterly), meet with City to review and discuss the City's claims inventory and claims results of specified periods and delivery of services by CLAIM ADMINISTRATOR.

H. Financial Accounting

- 1) Establish and maintain a trust fund for the purpose of paying indemnity and expenses that may be due on the claims. The amount to be maintained in the trust fund shall be determined by the City.
- 2) Maintain a copy of all checks drawn by the Consultant to pay claims and claims related expenses.
- 3) Submit monthly check registers of all transactions made for the period.
- 4) Complete or update Attachment B "Preferred Method of Check Processing" for check processing options.
- 5) Approval process shall be documented in Consultant's and City's Expressed Scope of Work Standards and Instruction Form.
- 6) Consultant will provide monthly bank reconciliation reports to City for audit purposes.

I. Third Party Subrogation Services

- A. Consultant personnel are well versed in the identification, handling, and pursuit of subrogation claims arising out of CLAIMS which are the subject of this Agreement. Included within this contract, Consultant will perform the following functions:
- B. Identify potential opportunities to recover from persons, businesses, and entities other than the City.
- C. Prepare and file a claim with each identified entity.
- D. As applicable, tender defense to or seek recovery from any identified entity.
- E. With the assistance of counsel, prepare and file any necessary litigation required to effect the claim of recovery on behalf of the City
- F. Manage litigation related to such claims made to other person, businesses or entities

II. City EXPRESSED AUTHORITY AND LIMITATIONS

The list immediately below contains numerous services provided in this Agreement for which Consultant requests the City expressly establish authority and/or limitations, on the ability of Consultant to act on behalf of the City. The City will check the appropriate box establishing the authority of Consultant to act or the limitation as to that authority.

INVESTIGATION:

☒ George Hills will conduct all investigations

☐ City will conduct all investigations

☐ City will direct Consultant on each claim as to who performs investigations

In the event the City or other agency conducts any investigation, Consultant shall review for completeness.

Retention of Vendors (appraisers, translators, copy services, Independent Adjuster, IME's, Surveillance, etc.):

☒ Must be preauthorized by City

☐ Does not need preauthorization

REJECTION OF CLAIMS:

City's position regarding rejections (*e.g., if entity so dictates, a claim will be rejected for*

insufficiency). Check all that apply.

Protocols for Rejections

- ☒ Consultant needs authorization
- ☐ Consultant does not need authorization
- ☐ Consultant sends the Rejection
- ☒ City sends the Rejection
- ☐ Consultant sends out Denial Letter simultaneously with Rejection outlining the reason

LITIGATION:

Check all that apply.

- ☐ Consultant will handle litigated claims
 - ☒ Full
 - ☐ As assigned
 - ☐ Check Issuance and Data Input
 - ☐ Data Input only
- ☐ City will handle litigated claims inhouse, with Consultant to capture data into SIMS
 - ☐ City will send data to Consultant weekly
 - ☐ City will send data to Consultant monthly

Mandatory Settlement Conferences

- ☒ Consultant always attends
- ☐ At City request only

Small Claims Actions filed against City

- ☒ Consultant always appears
- ☐ At City request only

Legal Counsel

- ☒ Consultant must have City authorization to refer to outside Legal Counsel
- ☐ Consultant does not need City authorization to refer to outside Legal Counsel
- ☒ Consultant must use City approved Legal Panel for Attorney selection
- ☐ City does not have an approved Legal Panel for Attorney selection
- ☐ All Litigation to be handled by City in-house Legal
- ☒ Consultant always sends Litigation Assignment packets to Legal Counsel

City specific Litigation Guidelines: ☒ Yes ☐ No

City specific Litigation Referral Form/Letter: ☒ Yes ☐ No

City specific Litigation Budget Form: ☒ Yes ☐ No

Pay fees for Experts, photocopies, medical records as: ☒ Expense ☐ Legal

EXCESS REPORTING:

- ☒ Consultant will report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
- ☐ City will report claims to the excess insurer in compliance with excess carrier's reporting

requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.

AUTHORITY LEVELS:

Reserve within SIR:

☒ \$0.00 Other: \$ (specify amount)

Adjuster must seek approval from (City contact) to post indemnity reserves above authority level.

Medical Treatment:

☒ Medical Authorizations should only be sent to the claimant once liability is determined to be adverse to the City.

☐ Medical Authorizations should go out as soon as it is determined that a BI claim is being pursued.

CLAIMS EXCEEDING SIR:

☐ Consultant stops tracking activity once the SIR has been reached.

☒ Consultant will continue to track all activity at and/or above the SIR. The Excess JPA/Carrier will provide Consultant with activity documentation above the SIR.

☐ Consultant will reserve to Full Value and track recoveries.

THIRD PARTY SUBROGATION SERVICES:

☒ Consultant is authorized to initiate third party subrogation claims on behalf of City.

☐ Consultant must obtain authorization to initiate third party subrogation claims on behalf of City.

EXHIBIT B RATES AND COSTS

I. **RATES and COSTS**

The following compensation rate, shall be paid in consideration for the services provided by Consultant as described in Exhibit A – Scope of Services And City Expressed Authority And Limitations Under The Agreement, which has been agreed to, including claims activity. This section shall remain enforced and services provided during the term of this Agreement, unless otherwise amended pursuant to Paragraph 31 of this Agreement.

The amounts to be paid pursuant to this Agreement are detailed in two distinct areas of services: first, under subsection 1 below, “General and Administrative Services,” which is outlined in Exhibit A, section I, Services Included in the Agreement, and stated in greater detail in subsections A, E, F and H; and second, services specifically related to claims handling and administration, which is detailed in Attachment A, section I, subsections B, C, D, G and I, for which an annual fixed fee is charged pursuant to section II, “Claim Administration Services,” as stated below.

1) **General and Administrative Services**

a. OneTime On-Boarding/Start-Up Fee: \$10,000

This represents a one-time startup fee to include, but not limited to, the planning and coordination of the onboarding process and documentation, detailing specific claims handling instructions, communication protocols, personalize design of CMIS structure, new client setup – bank account, vendors, W-9, etc., and claims triage/assignment.

b. Annual Administration Fee: \$7,500

c. Mileage – Adjuster: Mileage is paid at the IRS rate.

d. MMSEA: There is a one-time setup fee of \$150 and a \$250 annual reporting fee. which are paid directly to ExamWorks, for the performance of CMS reporting.

e. Adjuster Travel Expenses: Consultant will separately charge the actual cost for any travel expenses in connection with attendance at mediations, settlement conferences, trials, etc. This will be subject to prior approval and that actual expenses will be submitted with receipts on a monthly basis.

f. CXP Access Fee: Access to the CMIS is Included in the annual administration fee, it includes the setup and management of up to five (5) user accounts through CXP.

g. iMetrics Report Fee: There will be no charge for our iMetrics business intelligence reports with executive in-person debriefs.

h. Custom Reports: Additional charges for custom reporting shall be defined as, requiring a third-party programmer for three hours or more and is client specific. Charges for custom reports shall be billed at the rate of \$185 per hour.

- i. **Conversion Fee:** Consultant will pay the Conversion Fee subject to the terms stated below. The Conversion Fee covers costs associated with electronic data conversion, transition, reconciliation of financials, all reports created and vetted, and City sign-off on CMIS set up.

Consultant extends to new clients the following: Consultant believes in the establishment of a long-term partnership, and as such shall pay 100% of all costs relating to the data conversion, which is estimated at \$20,000-40,000. This is based solely on Consultant being retained under this Agreement for five years (whether it is this Agreement or an extension of/amendment to this Agreement). If, for any reason the Consultant is not retained for five years, the City will be subject to a fee of 20 percent of the full Conversion Fee for each year not retained.

The Conversion Fee does not include, the shipping, storing, scanning, copying, or otherwise handling open or closed paper claims files. Please see subsection M, "Paper Files" below.

Upon early termination of this Agreement, any remaining fee will be added to the penultimate invoice and if not paid, will result

- j. **Catastrophic Fees:** Consultant recognizes that there are events that are unanticipated and catastrophic. When such events occur, it requires additional hours for the handling of such claims. As such, to preserve the quality and efficiency of service for which we have been known, Consultant proposes that should any one catastrophic event occur resulting in five or more claimants, or two or more claimants with their own defense counsel, City shall be billed at the current hourly rate for all services.

- k. **3% Escalator:** Consultant pricing option for the Agreement is a 3% annual increase.

In the event of Agreement termination, Consultant procedures and cost for run-off claims will be billed at the current hourly rate; no charge for historical loss summaries. Consultant believes that the successful transition of claims requires preparation, so we ask for 90 days' notice if the Agreement is terminated without cause, to properly and efficiently facilitate the transition of claims management.

- l. **General File:** A general administrative file shall be established and maintained to track effort related to services necessary to fulfill our contractual obligations and not otherwise associated with a claim.

- m. **Storage:** Consultant will charge for any services related to storage, retrieval, copying, scanning, shipping, and disposal of paper files.

2) Claims Administration Services

Fixed Annual Fee For Agreement Period*	
Year One – 2021-2022	\$195,000

Year Two – 2022-2023	\$200,850
Year Three – 2023-2024	\$206,876
Year Four – 2024-2025	\$213,082
Year Five – 2025-2026	\$219,474

**Fixed annual fee is increased 3% annually during Agreement term.*

II. **ALLOCATED EXPENSES**

A. Typically, allocated expenses are those expenses that are generated by a claim (by outside vendors other than Consultant) that cannot be foreseen nor included in an agreement. These are generally allocated back to the specific claim file for which the cost was incurred and then charged back to the entity whose claim incurred that cost. In most situations are pass-through costs (with processing fees) for services and/or fees not directly generated by the TPA, but rather by a third-party consultant where the TPA has acted as an agent on behalf of the entity to necessarily outsource services to a third-party consultant and/or miscellaneous fees applicable to the specific claim applied by an outside entity, such as a court or copy service. Below, Consultant has provided a list, by no means an exhaustive list, of typical allocated expenses.

1. Fees of outside counsel for claims in suit, coverage opinions, and litigation, and for representation and hearings or pretrial conferences;
2. Fees of court reporters;
3. All court costs, court fees, and court expenses;
4. Fees for service of process;
5. CMS reporting costs and fees (ExamWorks);
6. Costs of undercover operatives and detectives;
7. Costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, or diagrams;
8. Costs for employing experts for the advice, opinions, or testimony concerning claims under investigation or in litigation for which a declaratory judgment is sought;
9. Costs for independent medical examination or evaluation for rehabilitation;
10. Costs of legal transcripts of testimony taken at coroner's inquests, or criminal or civil proceeding;
11. Costs for copies of any public records or medical records;
12. Costs of depositions and court reporting;
13. Costs and expenses of subrogation, (if not Consultant);
14. Costs of engineers, handwriting experts, or any other type of expert used in the preparation of litigation or used in a one-time basis to resolve disputes;
15. Witness fees and travel expenses;
16. Costs of photographers and photocopy services (if not Consultant—our costs for this is included in our rate);

17. Costs of appraisal fees and expenses not included in flat fee or performed by others;
18. Costs of indexing claimants;
19. Services performed outside the TPA's normal geographical regions;
20. Costs associated with Medicare Set-Aside analysis and submission or Medicare Conditional Lien negotiation;
21. Investigation of possible fraud including SIU services and related expenses; and/or
22. Any other similar cost, fee, or expense that is not otherwise included in the TPA's service fees that is reasonably chargeable to the investigation, negotiation, settlement, or defense of a claim or loss or to the protection or perfection of the subrogation rights of the entity.

**INSURANCE EXHIBIT
INS-A**

5-YEAR AGREEMENT WITH GEORGE HILLS COMPANY FOR THIRD PARTY LIABILITY ADMINISTRATION SERVICES

Presented to the Finance and Governance Committee

April 27, 2021

RECOMMENDATION

That the Finance and Governance Committee recommend that City Council approve Agreement No. A-8319 with George Hills Company, Inc. in an amount not to exceed \$1,084,182 for liability claims administration and adjustment services over a 5-year term.

BACKGROUND

- The City currently contracts with Sedgwick (formerly York Insurance Services) for liability claims administration services
 - 5-year agreement, initially awarded in 2016
 - Ends June 30, 2021
- Staff conducted an RFP in January 2021 for liability claims administration services
 - Distributed to 10 firms directly known to perform this work
 - Posted on [publicpurchase.com](https://www.publicpurchase.com)
 - Advertised on the City's website
 - 5 proposals received
 - Interdepartmental panel of employees (City Attorney/Human Resources) review proposals and interviewed top 3 ranked firms

RESULTS

- George Hills Company, Inc. selected as the most qualified firm to be awarded the agreement
 - Overall responsiveness to the RFP
 - Demonstrated experience and ability of staff assigned to the City
 - Extensive public sector experience and client base
 - Firm's operating philosophy
 - Value-added services
 - Competitive cost
- Total cost of the agreement is \$1,084,182 over 5 years:

FY 21-22:	\$ 212,900*
FY 22-23:	208,600
FY 23-24:	214,626
FY 24-25:	220,832
FY 25-26:	227,224
Total	\$1,084,182

* Includes start-up costs of \$10,000

RECOMMENDATION

That the Finance and Governance Committee recommend that City Council approve Agreement No. A-8319 with George Hills Company, Inc. in an amount not to exceed \$1,084,182 for liability claims administration and adjustment services over a 5-year term.

Financial Impact

- None in the current fiscal year.
- This agreement will begin July 1, 2021 and is included as part of the FY 2021-22 Budget.



QUESTIONS



**FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT
REPORTS
AGENDA ITEM NO. C.4**

DATE: April 27, 2021
TO: Finance & Governance Committee
FROM: Shiri Klima, Deputy City Manager, (805) 385-7487, shiri.klima@oxnard.org
SUBJECT: Whistleblower Hotline Services Agreement Extension.

RECOMMENDATION

That the Finance and Governance Committee recommend the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement No. A-7986 with Price Paige and Company to add three years to its whistleblower hotline services.

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

BACKGROUND

On June 27, 2017, City Council awarded a consulting services agreement (No. A-7986) to Price Paige and Company for a three year term that expired on June 30, 2020. This contract's scope of work consisted of managing a whistleblower hotline, conducting an internal audit risk assessment, and completing internal audits. On December 17, 2019, the Council amended that agreement (First Amendment) for the purposes of better communication between the consultant and Council. On November 17, 2020, the Council awarded an agreement to Vasquez & Company, LLP for internal auditing services. On June 30, 2020, staff amended the Price Paige agreement (Second Amendment) in relevant part to narrow the scope of services only to whistleblower hotline services and to extend that scope of work to June 27, 2021.

DISCUSSION

Price Paige has continued to manage the whistleblower hotline. In that capacity, Price Paige operates a toll free phone hotline (through a third party), email and mail repository to solicit allegations from City employees and members of the public of an improper governmental action, which the company defines as "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 a violation of any local, state or federal law or regulation related to corruption, malfeasance, bribery, theft of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct." Once such an allegation is received, Price Paige may reach out to the complainant to ascertain the nature of the complaint, its merit and relevance; maintains a database to track complaints and activities leading to the resolution of them; prioritizes the complaints consistent with the City's Whistleblower Hotline Policy; and conducts the relevant due diligence leading to appropriate findings and resolution of each complaint. Price Paige provides periodic

reports to the Finance and Governance Committee, which must occur at least once every six months, including a list of the allegations received through the hotline, the priority assigned to each allegation, and the status or disposition of each.

As of early April when this report was drafted, the City has paid Price Paige \$6,250 for the whistleblower hotline services in Fiscal Year 2020-21. Thus, staff estimates that continuing to work with Price Paige will cost the City no more than \$12,000 per fiscal year for the next three years. Staff recommends the City extend this contract for three more fiscal years.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

No budget adjustment is necessary. There is sufficient funding in the General Fund Non-Departmental professional contract (Account 101-1001-801.-82-09) in Fiscal Year 2020-21 to cover the estimated costs for the remainder of the current fiscal year. Funding of future years costs will be included in the respective budget of each Fiscal Year (2021-22, 2022-23 and 2023-24).

Prepared by: Shiri Klima, Deputy City Manager

ATTACHMENTS

1. A-7986 Price Paige and Company Amendment 3 - Proposed
2. A-7986 Price Paige and Company Original Contract
3. A-7986 Price Paige and Company Amendment 1
4. A-7986 Price Paige and Company Amendment 2
5. Whistleblower Hotline Services Agreement Extension - Presentation

THIRD AMENDMENT TO CONSULTING SERVICES AGREEMENT

This Third Amendment ("Third Amendment") to the Consulting Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of May, 2021, by and between the City of Oxnard, a municipal corporation ("City"), and Price Paige and Company ("Consultant"). This Third Amendment amends the Agreement entered into on June 27, 2017, by City and Consultant. The Agreement was previously amended on December 17, 2019, by a First Amendment, and on June 30, 2020, by a Second Amendment.

1. City and Consultant agree that Section 12 of the Agreement is hereby amended to state: "This Agreement shall begin on June 28, 2017, and shall expire on June 30, 2024."
2. As so amended, the Agreement remains in full force and effect.

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

CITY OF OXNARD

PRICE PAIGE AND COMPANY

John C. Zaragoza, Mayor Date

Fausto Hinojosa, President Date

ATTEST:

Mitch Buckley, Vice President Date

Rose Chaparro, City Clerk Date
(only if Mayor signs)

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) Date

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 6/27/17
Tim Flynn, Mayor Date

VENDOR/CONTRACTOR/CONSULTANT

Fausto Hinojosa 6/19/17
Fausto Hinojosa, Vice President Date
Mitch Buckley 6/21/17
Mitch Buckley, Secretary Date

ATTEST:

Michelle Ascencion 6/27/17
Michelle Ascencion, City Clerk Date

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

Greg Nyhoff 6/21/17
Greg Nyhoff, City Manager Date

APPROVED AS TO AMOUNT:

Greg Nyhoff 6/21/17
Greg Nyhoff, City Manager Date

APPROVED AS TO INSURANCE:

Mike More 6/27/17
Mike More, Risk Manager Date

The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC; or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

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

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. City Council Initial Audit Work Plan:

- 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.

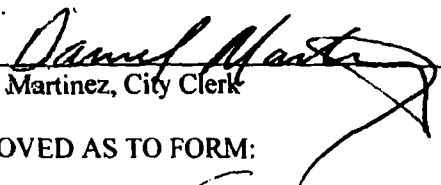
ABSENT: NONE.

ABSTAIN: NONE.



Tim Flynn, Mayor

ATTEST:


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/cons umer-complaints/file-a- complaint/get-started
California Attorneys	State Bar of California http://www.calbar.ca.gov/Attorneys/LawyerRegulation/FilingaComplaint.aspx	Complaints	800-843-9053
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	<u>\$ 3,000</u>
	\$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	<u>\$14,960</u>
	\$127,380

Amounts in this Section II. Reflect “not to exceed” amounts

First Year Costs	\$156,100
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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.

FIRST AMENDMENT TO AGREEMENT FOR CONSULTING SERVICES

This First Amendment ("First Amendment") to the Agreement for Consulting Services A-7986 ("Agreement") is made and entered into in the County of Ventura, State of California, this 17th day of December, 2019, by and between the City of Oxnard, a municipal corporation ("City"), and Price Paige and Company ("Consultant"). This First Amendment amends the Agreement entered into on June 27, 2017, by City and Consultant.

City and Consultant (collectively the "Parties") agree as follows:

1. All references to the "Fiscal Policy Task Force," "Fiscal Policy Task Force Council Committee," and "Fiscal Policy and Audit Council Committee" throughout the Agreement and all exhibits thereto are hereby amended to the "Finance and Governance Committee." All references to the "Chair of FPTF" throughout the Agreement and all exhibits thereto are hereby amended to the "Chair of the Finance and Governance Committee."
2. Subsection 4 of subsection B (Administer Oxnard's new Whistleblower Hotline Policy) of Section I (Internal Auditor Basic Services) of Section I (Scope of Services) of Exhibit A is hereby amended to state: "Provide periodic reports to the Finance and Governance Committee, at a frequency depending on volume but in any case 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."
3. Subsection D (regarding overtime) of Section II (City Council Initial Audit Work Plan) of Section I (Scope of Services) of Exhibit A is hereby amended to add the following sentence to the end: "The final report will be reported out to the Finance and Governance Committee and ultimately to the full City Council."
4. Subsection E (regarding the City's Golf Course) of Section II (City Council Initial Audit Work Plan) of Section I (Scope of Services) of Exhibit A is hereby amended to add subsection 4, which states: "The final report will be reported out to the Finance and Governance Committee and ultimately to the full City Council."
5. Subsection A of Section III (Annual Audit Work Plan: Professional Standards, Implementation and Maintenance) of Section I (Scope of Services) of Exhibit A is hereby amended to add subsection 5, which states: "The final audit reports will be reported out to the Finance and Governance Committee and ultimately to the full City Council."
6. Subsection A of Section III (Annual Audit Work Plan: Professional Standards, Implementation and Maintenance) of Section I (Scope of Services) of Exhibit A of the Agreement is hereby amended to state:

"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 approved by the Finance and Governance Committee. The related work activities are as follows:”

7. New section IV (Regular Review of Priorities) is hereby added to Section I (Scope of Services) of Exhibit A and provides:

“A. In addition to the requirement in Section III (A) for the Finance and Governance Committee to approve the Internal Auditor’s annual work plan, the Internal Auditor shall meet with the Chair of the Finance and Governance Committee at least every two months to review the Internal Auditor’s priorities and current status of all such priorities. The Chair has the authority, granted to him or her by the City Council, to amend the priority order of existing work as well as to authorize new work. The Internal Auditor shall immediately adjust its work according to the Chair’s approval at each such meeting.

B. Should a matter arise that the Internal Auditor determines is too urgent to wait until the next meeting with the Chair of the Finance and Governance Committee, the Internal Auditor shall immediately present this concern to the City Manager, or if the City Manager is implicated by this concern, to the City Attorney. The City Manager and City Attorney each have the authority, granted to each of them by the City Council, to individually authorize new work related only to this urgent matter. The Internal Auditor shall immediately adjust its work according to the City Manager or City Attorney’s written approval. At the next meeting with the Chair of the Finance and Governance Committee, the Chair shall ratify this determination, unless the Chair is implicated in this concern, in which case the City Manager or City Attorney shall bring this item forth for ratification at the next possible date to either the Finance and Governance Committee or to the full Council. The determination of whether the item should go to this Committee or to the full Council shall be at the City Manager or City Attorney’s discretion.”

8. New section V (Regular Updates to Finance and Governance Committee) is hereby added to Section I (Scope of Services) of Exhibit A and provides: “The Internal Auditor shall present to the Finance and Governance Committee audit status updates at least twice a year and present all audit reports as they are completed to this Committee and later to the City Council.”

9. Exhibit B Schedule of Services is hereby replaced in its entirety with Exhibit B-1 Amended Schedule of Services, which is attached hereto and incorporated herein by this reference.

10. The line items and corresponding figures in Section I of Exhibit C (Compensation) are hereby amended to read as follows:

“A. Provide designated Internal Auditor basic services	\$15,000
B. Provide Whistleblower Hotline services	<u>\$50,000</u>
TOTAL	\$65,000”

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

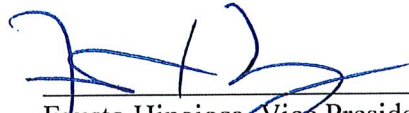
IN WITNESS WHEREOF, the Parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

CONSULTANT

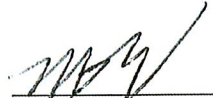
Tim Flynn, Mayor

Date

 12/4/19

Fausto Hinojosa, Vice President Date

ATTEST:

 12/4/19

Mitch Buckley, Secretary Date

Michelle Ascencion,
City Clerk

Date

APPROVED AS TO FORM:

 12/4/19

Stephen M. Fischer,
City Attorney Date

EXHIBIT B-1
AMENDED SCHEDULE OF SERVICES

I. High Risk Areas for Audit Consideration (updated September 2019)

<u>Department</u>	<u>Specific Risks (does not mean controls are not in place)</u>	<u>Response</u>	<u>Timing</u>	<u>Anticipated Completion Date</u>	<u>Likelihood</u>	<u>Significance</u>
<u>City-wide (transactions to be tested across all City Departments):</u>						
Accounts Payable	Fictitious vendors	IDEA	Annual	3/31/2020	Medium	High
	Fraudulent disbursements	IDEA	Annual	3/31/2020	Medium	High
	Duplicate payments	IDEA	Annual	3/31/2020	Medium	High
	Invoices exceeding purchase order amounts	IDEA	Annual	3/31/2020	Medium	High
	City issued credit cards	Potential IA	1 st QTR 2020	2/28/2020	High	High
Accounts Receivable and Billings	Travel expenses/Employee expense reimbursements	Potential IA	1 st QTR 2020	2/28/2020	High	High
	Misappropriation of cash receipts (permits, utilities, other fees)	Potential IA	3 rd QTR 2020	12/31/2020	High	Medium
	Improper utility billing	External Audit	Annual	N/A	Medium	Medium
Purchasing	Noncompliance with bid policies	Potential IA	3 rd QTR 2020	12/14/2020	High	Medium
	Bid splitting	Potential IA	3 rd QTR 2020	12/14/2020	High	Medium
	Sole source contracts	Potential IA	3 rd QTR 2020	12/14/2020	High	Medium
Payroll/HR	Ghost employees	IDEA	Annual	3/31/2020	Medium	Medium
	Excessive overtime	IDEA/ IA Work Plan	In progress	11/15/2019	High	High
	Improper classification of pay for PERS purposes	Potential IA	3 rd QTR 2020	12/31/2020	Medium	Medium
<u>City of Oxnard Major Departments</u>						
Federal and State Programs	Unallowable expenditures for major and/or material programs	External Audit	Annual	N/A	Medium	Medium
Fire Department	Overtime analysis	IA Work Plan	In progress	11/15/2019	High	High
Police Department	Overtime analysis	IA Work Plan	In progress	11/15/2019	High	High
Public Works: Water Wastewater	Handling of confiscated cash and other assets	Potential IA	4 th QTR 2020	2/28/2021	Medium	Low
	Inventory theft	Potential IA	4 th QTR 2020	2/28/2021	High	Low
	Inventory theft	Potential IA	4 th QTR 2020	2/28/2021	High	Low
Environmental Services	Misappropriation of cash receipts	Potential IA	Completed	9/30/2019	Medium	Low
	Inventory theft	Potential IA	4 th QTR 2020	2/28/2021	High	Low
Fleet	Inventory theft	Potential IA	4 th QTR 2020	2/28/2021	High	Low
<u>Program Specific Audits</u>						
Golf Course	Performance audit	IA Work Plan	In progress	12/31/2019	Medium	Medium
Performing Arts &	Performance audit	IA Work	Completed	9/13/2019	Medium	Medium

Convention Center		Plan				
City Corp	Performance audit	IA Work	In	10/31/2019	Medium	Medium
		Plan	progress			

Legend:

IDEA-Data analysis software

EA-External Auditor

Note: The anticipated completion date is dependent upon the acceptance of the internal audit work plan by the Finance and Governance Committee and the City's ability to provide information as requested.

II. Internal Audit Basic Services

- a. Provide designated City Internal Auditor and commence basic services
- b. Provide Whistleblower Hotline services

These services will commence within three weeks from contract execution.

III. Audit Work Plan

- a. Conduct comprehensive performance audit of Oxnard's City Corp Program
- b. Conduct comprehensive performance audit of Oxnard's Performing Arts and Convention Center (PACC) Program
- c. Conduct a comprehensive audit of the City's use and management of overtime
- d. Conduct a comprehensive performance audit of the City's Golf operation
- e. Conduct a comprehensive audit of Environmental Resources cash handling
- f. Conduct a comprehensive audit of IDEA Warrants and Disbursements and a Payroll analysis
- g. Conduct a comprehensive audit of all City-issued credit cards and travel reimbursements

These activities must be completed in the City's 2019-20 fiscal year.

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

This is ongoing activity; however, any annual audit work plan must be completed by March 31st of the immediately preceding fiscal year.

SECOND AMENDMENT TO CONSULTING SERVICES AGREEMENT

This Second Amendment ("Second Amendment") to the Consulting Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 30th day of June, 2020, by and between the City of Oxnard, a municipal corporation ("City"), and Price Paige and Company ("Consultant"). This Second Amendment amends the Agreement entered into on June 27, 2017, by City and Consultant. The Agreement previously has been amended on December 17, 2019.

City and Consultant agree as follows:

1. The first sentence of Section 8 of the Agreement is hereby amended to state: "The Services performed under this Agreement shall be completed during the term of this Agreement." Exhibits B and B-1 are hereby disincorporated.
2. Section 12 of the Agreement is hereby amended to state: "This Agreement shall begin on June 28, 2017, and shall expire on June 27, 2021, unless City and Consultant agree to extend the term for up to one (1) more year."
3. The name "Greg Nyhoff" in Section 40(b) of the Agreement is hereby amended to "Alexander Nguyen."
4. The reference to the Exhibit A everywhere it is listed in the Agreement is hereby amended to the Exhibit A-1. Exhibit A is hereby disincorporated; instead, Exhibit A-1 is attached hereto and incorporated herein by this reference.
5. The reference to the Exhibit C everywhere it is listed in the Agreement is hereby amended to the Exhibit C-1. Exhibit C is hereby disincorporated; instead, Exhibit C-1 is attached hereto and incorporated herein by this reference.
6. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

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

CITY OF OXNARD

CONSULTANT



Daniel Willhite, Date
Purchasing Manager

Fausto Hinojosa, President Date

Mitch Buckley, Vice President Date

ATTEST:

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

APPROVED AS TO FORM:



Stephen M. Fischer, City Date
Attorney (always required) 6/19/2020

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

CITY OF OXNARD

CONSULTANT

Daniel Willhite,
Purchasing Manager

Date



Fausto Hinojosa, President

6/19/2020

Date



Mitch Buckley, Vice President

6/19/2020

Date

ATTEST:

n/a

Michelle Ascencion, City
Clerk (only if Mayor signs)

Date

APPROVED AS TO FORM:

Stephen M. Fischer, City
Attorney (always required)

Date

EXHIBIT A-1
SCOPE OF SERVICES

Internal Auditor Basic Services: (To commence immediately.) Administer Oxnard's Whistleblower Hotline Policy

1. Manage the City's Whistleblower Hotline Policy (see Attachment 1).
2. 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 duties as outlined 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 Finance and Governance Committee, 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.

Attachment 1

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, 1-833-350-0002, or by completing the online form located at <https://www.ppcpas.com/city-of-oxnard-alerts>. 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, environmental health and safety programs like OSHA and DOT compliance, and Risk Management for liability claims:

805-385-7590 <http://www.oxnard.org/human-resources>

City Attorney:

805-385-7483 <http://www.oxnard.org/city-attorney>

Code Compliance Division for neighborhood code, housing and dangerous buildings, business compliance, landscape requirements, rental house standards, and anti-graffiti:

805-385-7940 <http://www.oxnard.org/code>

Police for non-emergencies:

805-385-7600 <https://www.oxnardpd.org>

Reporting Options for Allegations Covered by Non-City Agencies

<u>Jurisdiction</u>	<u>Organization</u>	<u>Reporting</u>	<u>Methods</u>
County of Ventura	County Auditor-Controller	Employee Fraud Hotline	(805) 644-6019 http://ventura.org/employment/fraud-hotline Employee Fraud Hotline County of Ventura 800 South Victoria Avenue Ventura, CA 93009
State of California	Bureau of State Audits	Whistleblower Hotline	(800) 952-5665 http://www.bsa.ca.gov/hotline/filecomp Investigations California State Auditor P.O. Box 1019 Sacramento, CA 95812
Consumer Complaints Against a Business	California Office of the Attorney General	Consumer Complaint Form	http://www.oag.ca.gov/contact/consumer-complaint-against-business-or-company
Consumer Complaints Against a Business	Better Business Bureau	Complaints	http://www.bbb.org/consumer-complaints/file-a-complaint/get-started
California Attorneys	State Bar of California	Conduct & Discipline	(800) 843-9053 http://www.calbar.ca.gov/attorneys/conduct-discipline
California Judges	Commission on Judicial Performance	Complaints	http://cjp.ca.gov/file_a_complaint Commission on Judicial Performance 455 Golden Gate Avenue, Suite 14400 Sacramento, CA 94102 Fax: (415) 577-1266

Special Circumstances

- I. 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 Finance and Governance Committee 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:

Henry Oum, CPA – Audit Partner
570 North Magnolia Avenue, Suite 100
Clovis, CA 93611
(559) 299-9540
Henry@ppcpas.com
www.ppcpas.com

**EXHIBIT C-1
COMPENSATION RATES**

Whistleblower Hotline Services shall not exceed \$32,000 from June 28, 2020, through June 27, 2021, which shall be inclusive of the \$2,000 third-party hotline system.

Note: While the above is a “not to exceed” amount, extensive investigations into possible fraud activities cannot, and are not, estimated into the amount provided for the Whistleblower Hotline Program. 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 fraud has occurred, is occurring and/or will occur. Predication is the basis upon which an extensive examination or fraud investigation is commenced. Extensive investigations or fraud investigations are impossible to predict, thus outside the scope of the amount provided above.

Hourly Rates:

Partner	\$250-\$290/hr.
Manager	\$160-\$215/hr.
Supervisor/Senior	\$140-\$160/hr.
Staff	\$90-\$120/hr.
Support Staff	\$60-\$80/hr.

Whistleblower Hotline Services Agreement Extension

Finance & Governance Committee

April 27, 2021

Shiri Klima, Deputy City Manager

That the Finance and Governance Committee recommend the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement No. A-7986 with Price Paige and Company to add three years to its whistleblower hotline services.

- 6/27/17: City Council awards 3-year agreement to Price Paige for managing whistleblower hotline, conducting internal audit risk assessment, and completing internal audits
- 12/17/19: Council amends that agreement for better communication between consultant and Council
- 11/17/20: Council awards agreement to Vasquez & Company, LLP for internal auditing services
- 6/30/20: staff amends Price Paige agreement in relevant part to narrow scope of services only to whistleblower hotline services and to extend to 6/27/21



Price Paige continues to manage the whistleblower hotline, which means:

1. Operating a toll free phone hotline (through a third party), email and mail repository to solicit allegations from City employees and members of the public of improper governmental actions

** Improper governmental action = “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 a violation of any local, state or federal law or regulation related to corruption, malfeasance, bribery, theft of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct”*

2. Sometimes reaching out to the complainant to ascertain the nature of the complaint, its merit and relevance
 3. Maintaining a database to track complaints and activities leading to the resolution of them
 4. Prioritizing the complaints consistent with the City's Whistleblower Hotline Policy
 5. Conducting the relevant due diligence leading to appropriate findings and resolution of each complaint
 6. Providing periodic reports to the Finance and Governance Committee
-

Date of Invoice	Total
7/31/2020	\$350
8/31/2021	\$600
9/30/2021	\$500
10/31/2020	\$275
11/30/2020	\$2,650
12/31/2020	\$350
1/31/2021	\$1,050
2/28/2021	\$325
3/31/2021	\$150
Total	\$6,250

That the Finance and Governance Committee recommend the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement No. A-7986 with Price Paige and Company to add three years to its whistleblower hotline services.



QUESTIONS