

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
November 23, 2021
Regular Meeting - 5:00 to 6:30 PM (Temporary Time Change)
Zoom details to call-in for public comment during a meeting:

- 1. Dial Phone Number: (888) 475-4499**
- 2. Enter Meeting ID: 854 7158 0068**
- 3. Passcode: 915313**

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom calling in steps listed above. Once the Mayor calls for public speakers, press *9 to raise your hand to inform the clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room.

This meeting is being held in accordance with Assembly Bill 361, allowing members of the City Council, members of the public and staff to participate via teleconference.

Consistent with City policies imposed to promote social distancing, the facility where the City Council regularly meets is temporarily closed to the public. The public is encouraged to view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

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

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. EMAILING COMMENTS OR REQUESTING TO SIGN UP TO SPEAK BEFORE THE MEETING
 - a. Submit an email to cityclerk@oxnard.org no later than 3 p.m. on the day of the meeting (Please indicate the agenda item number in the subject line). All email correspondence will be forwarded to the City Council prior to the start of the meeting and made part of the legislative record.
 - b. Submit a request to speak by no later than 3 p.m. on the day of the meeting by using the form available at www.oxnard.org/city-meetings, emailing the City Clerk at cityclerk@oxnard.org, or calling the City Clerk at (805) 385-7803.
2. PROVIDING PUBLIC COMMENTS DURING THE MEETING
 - a. To provide public comment without requesting to speak prior to the meeting, during the meeting dial (888) 475-4499 and enter the Meeting ID and Passcode listed above as the Zoom details for this meeting.
 - b. Public comments on agenda items shall be taken following the announcement of the item. After all public speakers have been given an opportunity to speak on an agenda item, the public comment period shall be held open for three minutes to allow additional speakers to register or otherwise be recognized for the purpose of providing public comment. During this three minute time period, the City Council or staff may discuss the item being considered or briefly respond to previous comments.

Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing

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)

on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

* The City has filed pre-election and post-election lawsuits regarding the validity of Measure M.

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

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

C. CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Finance & Governance Committee approve the minutes of the November 9, 2021 regular meetings as presented.

Contact: Rose Chaparro, (805) 385-7805

D. REPORTS

1. Finance Department

SUBJECT: Proposed City Council Policy for Internal Control Integrated Framework - Monitoring Activities. (0/10/10)

RECOMMENDATION: That the Finance and Governance Committee provide feedback on a proposed City Council Policy for Internal Control Integrated Framework - Monitoring Activities and recommend City Council adopt a resolution to approve the proposed policy.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/m3l_ZZZusqg

Legislative Body: Finance and Governance Committee

Contact: Betsy George, 805-200-5400

2. City Manager Department

SUBJECT: First Amendment with Vasquez & Company LLP for On-Call Internal Auditing Services. (0/5/5)

RECOMMENDATION: That the Finance and Governance Committee recommends the City Council approve and authorize the Mayor to execute a First Amendment to the Professional Services Agreement with Vasquez & Company, LLP (9051-20-CM) in the amount of \$75,000 for a not to exceed contract amount of \$100,000 and to extend the term 3 more years until December 31, 2024, for On-Call Internal Auditing Services.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/keeTdH0nOOY>

Contact: Shiri Klima, (805) 385-7487

3. Billing and Licensing Department

SUBJECT: Ratification of the First Amendment to Agreement with Paymentus, Inc. for Credit Card Services. (0/10/10)

RECOMMENDATION: That the Finance and Governance Committee recommend the City Council ratify the first amendment to Agreement 9046-20-CT between Paymentus, Inc. and the City of Oxnard to add the function of credit card merchant processor in the scope of services to be performed by Paymentus, Inc.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/SRPuTKBgXJ4>

Contact: Eden Alomeri, (805) 385-7811

4. Finance Department

SUBJECT: Second Amendment to Agreement A-8012 with NHA Advisors for financial advisory services, disclosure compliance, and CDIAC reporting services. (0/5/5)

RECOMMENDATION: That the Finance and Governance Committee recommends the City Council approve and authorize the Mayor to execute a Second Amendment to Professional Services Agreement No. A-8012 with NHA Advisors for a five-year extension in the amount of \$100,000 per year (\$500,000 total for the amendment or, including the prior amount, \$800,000 total contract).

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/H9P1w1Jofp4>

Contact: Betsy George, 805-200-5400

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT



**FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT**

**CONSENT AGENDA
AGENDA ITEM NO. C.1**

DATE: November 23, 2021

TO: Finance & Governance Committee

FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the Finance & Governance Committee approve the minutes of the November 9, 2021 regular meetings as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

This agenda item is a routine operational item.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 11 09 2021 Finance & Governance Committee

MINUTES
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
Regular Meeting
NOVEMBER 9, 2021

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 5:09 p.m., Chair John C. Zaragoza called to order the regular meeting of the Oxnard City Council Finance and Governance Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Chair Zaragoza was present in person. Member Gabriela Basua participated via videoconference. There is a vacancy in this Council Committee.

Staff members present in person were Stephen Fisher, City Attorney and Rose Chaparro, City Clerk.

Staff members that participated via videoconference were Alexander Nguyen, City Manager; Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Betsy George, Chief Financial Officer; Jennifer Hiraoka, Internal Controls Manager; and Eden Alomeri, Billing & Licensing Director.

Eden Casareno (CPA), Client Service Executive and Hong N. Nguyen, Partner of Municipal Services; Auditors with Eadie + Payne LLP also participated via videoconference.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (None received.)

C. CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Finance & Governance Committee approve the minutes of the September 28, 2021 regular meeting as presented.

It was moved by Member Basua, seconded by Chair Zaragoza, to approve the Information/Consent item as presented. VOTE: Zaragoza and Basua voted in favor; the motion carried 2-0.

D. REPORTS

1. Finance Department

SUBJECT: Audit Committee Training by Eadie + Payne.

RECOMMENDATION: That the Finance and Governance Committee receive a training presentation from Eadie + Payne on the roles and responsibilities of the Audit Committee.

Betsy George, Chief Financial Officer introduced Eden Casareno and Hong N. Nguyen, Auditors with Eadie + Payne LLP, who presented and answered the Committee's questions. No public comments were received. Presentation was received and filed, no formal action was required.

2. Finance Department

SUBJECT: Update on Corrective Action Plan (CAP).

RECOMMENDATION: That the Finance and Governance Committee receive an update on the Corrective Action Plan (CAP) and recommend that the update be presented to City Council.

Betsy George, Chief Financial Officer introduced Jennifer Hiraoka, Internal Controls Manager who presented and answered the Committee's questions. No public comments were received. Discussion ensued among the Committee and staff.

It was moved by Chair Zaragoza, seconded by Member Basua, to approve the recommended action as presented. VOTE: Zaragoza and Basua voted in favor; the motion carried 2-0.

E. ITEMS FOR FUTURE AGENDAS (No requests were made.)

F. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Zaragoza adjourned the meeting at 6:19 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Chair



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.1

DATE: November 23, 2021

TO: Finance & Governance Committee

FROM: Betsy George, Chief Financial Officer, 805-200-5400, betsy.george@oxnard.org

SUBJECT: Proposed City Council Policy for Internal Control Integrated Framework - Monitoring Activities. (0/10/10)

RECOMMENDATION

That the Finance and Governance Committee provide feedback on a proposed City Council Policy for Internal Control Integrated Framework - Monitoring Activities and recommend City Council adopt a resolution to approve the proposed policy.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/m3l_ZZZusqg

BACKGROUND

The City Council recognizes the need to eliminate or reduce risk based on reasonable standards and level of effort. Proper internal controls must be developed and implemented to safeguard assets and ensure the City achieves its operational objectives. The responsibility to develop those controls must be established and evaluated on an ongoing basis.

DISCUSSION

There are nine recommended policies associated with the Internal Control - Integrated Framework (ICIF). Each policy is associated with one of the five Committee of Sponsoring Organizations of the Treadway Commission (COSO) components. One recommended policy, "Performance Evaluations of City Manager and City Attorney," is already addressed through the process for conducting these evaluations, which is managed by the Human Resources Department. The time line for consideration of the other eight recommended policies has been as follows:

On September 1, 2020, the City Council adopted the ICIF and the first four implementing policies under the COSO Control Environment component:

- 1) FPOL 1.01 Adoption of Internal Control - Integrated Framework
- 2) FPOL 1.02 Adoption of Internal Control Oversight Responsibilities
- 3) FPOL 1.03 Finance and Governance Committee Duties and Responsibilities
- 4) FPOL 1.04 Assignment of Authority and Responsibility for Achieving Operational, Reporting and Compliance Objectives

On January 5, 2021, the City Council adopted the fifth implementing policy under the COSO Risk Assessment component:

5) FPOL 1.05 City Council's Risk Assessment Responsibilities

On March 2, 2021, the City Council adopted the sixth implementing policy under the COSO Control Activities component:

6) FPOL 1.06 City Council's Development and Implementation of Internal Controls

On June 1, 2021, the City Council adopted the seventh implementing policy under the COSO Information and Communication component:

7) FPOL 1.07 City Council's Information and Communication of Internal Controls

The eighth and final COSO component is Monitoring Activities, with a corresponding proposed implementing policy FPOL 1.08 and City Council's Creation of a Monitoring System. This eighth implementing policy defines the City Council's internal control activities as they relate to the monitoring activities of internal controls. The draft policy reaffirms the City Council's commitment to monitoring regularly and effectively the City's internal controls.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Jennifer Hiraoka, Senior Manager Internal Controls/Acting Controller, Betsy George, Chief Financial Officer

ATTACHMENTS

1. FPOL 1.08 Creation of a Monitoring System
2. Resolution establishing City Council's Policy for a Monitoring System of Internal Controls
3. 11.23.21 - FGC - ICIF - Creation of a Monitoring System_JH revised 111721 (1)

	City of Oxnard Finance Policy		
TITLE Creation of a Monitoring System			PAGE 1 of 2
NUMBER FPOL 1.08	VERSION 1.0	DOCUMENT OWNER Jennifer Hiraoka	EFFECTIVE DATE 12/21/2021
PROCEDURE OWNER Jennifer Hiraoka	TITLE Sr. Mgr, Internal Controls	(Signature)	DATE 11/23/2021

1.0 POLICY STATEMENT

- 1.1.1 The Council directs that the City Manager implement a monitoring system for internal control activities. The monitoring system shall be one that gives the community, City Council, employees and other stakeholder's reasonable assurance that the City is adhering to Internal Control – Integrated Framework (ICIF) principles and is achieving operating, reporting, and compliance objectives.
- 1.1.2 The City Manager shall report to the City Council the results of any evaluations conducted by staff, consultants or auditors about whether the internal controls are effectively designed and operating as intended, no less than annually.
- 1.1.3 The City Manager shall evaluate and report to the City Council any internal control deficiencies identified as part of the City's monitoring activities and identify the corrective actions to be taken to cure the deficiencies.

2.0 SCOPE

The policy covers all of the City Oxnard's monitoring activities as it relates to the monitoring of internal controls.

3.0 BACKGROUND

- 3.1.1. The City Council recognizes that the ICIF and the City's internal controls must be monitored regularly and effectively. This requires that components of the internal control system not only exist but are also functioning as designed, any deficiencies are reported to the Council and senior management, and corrective action is taken in a timely manner.

4.0 DEFINITIONS

Term	Definition
Internal Control – Integrated Framework (ICIF)	A system of internal control designed to address three main categories of internal control objectives which are 1. Operations 2. Reporting and 3. Compliance
Monitoring System	A set of procedures to observe and check the progress or

		City of Oxnard Finance Policy	
TITLE Creation of a Monitoring System			PAGE 2 of 2
NUMBER FPOL 1.08	VERSION 1.0	DOCUMENT OWNER Jennifer Hiraoka	EFFECTIVE DATE 12/21/2021

Term	Definition
	quality of systems, applications, over a period time; keep under systematic review.
Deficiencies	A failing or shortcoming.
Corrective Action	Improvements to an organization's processes taken to eliminate causes of deficiencies so as to prevent recurrence.

5.0 ROLES AND RESPONSIBILITIES

Role	Responsibility
City Council	Exercise its oversight duties, working with the City Manager, City Attorney and other officials, to select, develop, and perform ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning as intended.
Finance and Governance Committee (audit committee)	As defined in FPOL 1.03 Internal Control – Finance and Governance Committee Duties and Responsibilities as it relates to the Finance and Governance Committee's responsibilities for the monitoring of internal controls.
City Manager	Responsible for carrying out policies along with managing the organization and ensuring accountability for performance of all employees under his or her direction.

CITY OF OXNARD REFERENCES

FPOL 1.01 Adoption of Internal Control – Integrated Framework
FPOL 1.02 Adoption of Internal Control Oversight Responsibilities
FPOL 1.03 Internal Control – Finance and Governance Committee Duties and Responsibilities
FPOL 1.04 Assignment of Authority and Responsibility for Achieving Operational, Reporting and Compliance Objectives
FPOL 1.05 City Council's Risk Assessment Responsibilities
FPOL 1.06 Development and Implementation of Internal Controls
FPOL 1.07 Commitment to Transparent and Complete Information and Communication

6.0 DOCUMENT HISTORY

Version	Summary of Changes	Reason for Changes
1.0	New policy	New policy

CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
ADOPTING A MONITORING SYSTEM FOR INTERNAL CONTROLS POLICY**

WHEREAS, in furtherance of the City Council's Organizational Effectiveness Strategic Goal, City staff recommends adopting policies associated with the Internal Control - Integrated Framework (ICIF) sponsored by the Committee of Sponsoring Organizations of the Treadway Commission (COSO);

WHEREAS, the COSO ICIF defines City Council's internal control activities as they relate to the monitoring system for internal controls;

WHEREAS, the recommended Policy for Creation of a Monitoring System of Internal Controls reaffirms the City Council's commitment to hold management accountable for adhering to Internal Control – Integrated Framework (ICIF) principles; and

WHEREAS, recommended delegation of responsibilities includes assigning the Finance and Governance Committee to work with the Internal Auditor to develop and implement internal controls to safeguard assets and ensure the City achieves its operational objectives.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to adopt the Policy for Creation of a Monitoring System of Internal Controls (FPOL 1.08 Monitoring System for Internal Controls) attached hereto as Exhibit A.

PASSED AND ADOPTED on this _____ day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

EXHIBIT A

FPOL 1.08 City Council's Policy for Monitoring System for Internal Controls

Proposed City Council Policy for Internal Control Integrated Framework – Monitoring Activities

Presentation to Finance and Governance Committee

Jennifer Hiraoka, Senior Manager Internal Controls/Acting Controller
November 23, 2021

That the Finance and Governance Committee provide feedback on a proposed City Council Policy for Internal Control Integrated Framework – Monitoring Activities and recommend City Council approve the proposed policy.

- Policies Associated with the Internal Control - Integrated Framework (ICIF)
- Adoption of a Policy for the Creation of a Monitoring System for Internal Control activities

Policies Associated with the Internal Control - Integrated Framework (ICIF)

COSO Category	City Council Policies
A. Control Environment Adopted 9/1/20 Previously in place	1. Adoption of Internal Control - Integrated Framework 2. Adoption of Internal Control Oversight Responsibilities 3. Finance and Governance Committee Duties and Responsibilities 4. Assignment of Authority and Responsibility for Achieving Operational, Reporting and Compliance Objectives 5. Performance Evaluations of City Manager and City Attorney
B. Risk Assessment Adopted 1/5/21	6. City Council's Risk Assessment Responsibilities
C. Control Activities Adopted 3/2/21	7. Development and Implementation of Internal Controls
D. Information and Communication Adopted 6/1/21	8. Commitment to Transparent and Complete Information and Communication
 E. Monitoring Activities	9. Creation of a Monitoring System

- Implementing policy defines City Council's internal control activities as they relate to the creation of a monitoring system of internal controls.
- Draft policy reaffirms the City Council's creation of a monitoring system.

That the Finance and Governance Committee provide feedback on a proposed City Council Policy for Internal Control Integrated Framework – Monitoring Activities and recommend City Council approve the proposed policy.



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.2

DATE: November 23, 2021

TO: Finance & Governance Committee

FROM: Shiri Klima, Deputy City Manager, (805) 385-7487, shiri.klima@oxnard.org

SUBJECT: First Amendment with Vasquez & Company LLP for On-Call Internal Auditing Services.
(0/5/5)

RECOMMENDATION

That the Finance and Governance Committee recommends the City Council approve and authorize the Mayor to execute a First Amendment to the Professional Services Agreement with Vasquez & Company, LLP (9051-20-CM) in the amount of \$75,000 for a not to exceed contract amount of \$100,000 and to extend the term 3 more years until December 31, 2024, for On-Call Internal Auditing Services.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/keeTdH0nOOY>

BACKGROUND

On January 28, 2020, staff came to the Finance and Governance Committee to discuss the Internal Audit Program framework. In that presentation, staff recommended a thorough performance evaluation of each department in the City once every six years. On September 22, 2020, staff advised the Finance and Governance Committee that, until the City locates a source of funding for this comprehensive Internal Audit Program, the request for proposals would be for an internal auditor contract for \$25,000. As explained in the request for proposals, this firm would be used when the majority of the Finance and Governance Committee or a majority of the City Council (or the City Manager or the City Attorney pursuant to their delegated powers) determines that a performance or forensic audit is required, other than for the annual full-City financial audit (completed by the City's external auditors). On November 17, 2020, City Council awarded a professional services agreement (No. 9051-20-CM) to Vasquez & Company, LLP, for a one-year term that expires on December 31, 2021. This contract's scope of work is for on-call internal auditing services. Thus far, \$10,000 worth of services has been invoiced on that contract.

This First Amendment for Professional Services extends the agreement with Vasquez & Company LLP in the amount of \$75,000 for a not to exceed contract amount of \$100,000. The Amendment also increases the rates of services starting in 2023 (as listed in the exhibit to the amendment). Finally, the amendment extends the term of the contract from December 31, 2021, to December 31, 2024, for On-Call Internal Auditing Services.

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 appropriation is necessary. There is sufficient funding in the General Fund Non-Departmental professional contract (Account 101-1001-801-82.09) in Fiscal Year 2021-22 to cover the estimated costs for the remainder of the current fiscal year. Funding for future years costs will be included in the respective budget of each Fiscal Year (2022-23 and 2023-24).

Prepared by: Luly Lopez, Executive Assistant I

ATTACHMENTS

1. Agreement for Professional Services - Vasquez & Company, LLP
2. First Amendment Vasquez & Company, LLP.v2
3. Vasquez Presentation

**AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE**

- (1) Agreement Start Date: 11/18/20
- (2) Consultant: Vasquez & Company, LLP
- (3) Services: Internal Auditing Services
- (4) Schedule of Services:
On-call, as-needed Internal Auditing Services per Scope of Services and Rates & Cost Exhibit, which is attached hereto and incorporated herein.
- (5) Agreement Ending Date: December 31, 2021
- (6) Total Agreement Amount: \$25,000
- (7) City's Project Manager: Shiri Klima*
- (8) Consultant's Project Manager: Roger Martinez.
- (9) Insurance Coverage: INS-A
- (10) Addresses for Notice:
- | | |
|-----------------------------------|--|
| <i>FOR CONSULTANT:</i> | <i>FOR CITY:</i> |
| 655 N. Central Avenue, Suite 1550 | 300 W. Third Street, 4 th Floor |
| Glendale, CA 91203 | Oxnard, CA 93030 |
| Attn: Roger Martinez, Partner | Attn: Shiri Klima, Deputy City Manager |
- (11) Contact Emails:
- | | |
|--|--------------------------------|
| <i>CONSULTANT'S PROJECT
MANAGER:</i> | <i>CITY'S PROJECT MANAGER:</i> |
| <u>r_martinez@vasquezcpa.com</u> | <u>Shiri.klima@oxnard.org</u> |

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

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

**In the event that any audit implicates or potentially implicates Ms. Klima or the City Manager's office as a whole, City's Alternate Project Manager shall be Stephen Fischer, City Attorney, whose email is stephen.fischer@oxnard.org.*

AGREEMENT FOR PROFESSIONAL SERVICES

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

1. Scope of Services. Consultant shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Consultant shall provide the Services during the term of this Agreement, as set forth below, according to the schedule written as "(4) Schedule of Services" on the Cover Page, and as further explained in the Scope of Services Exhibit, which is attached hereto and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and any incorporated document(s), the terms of this Agreement shall control.

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

3. Correction of Errors. Consultant shall correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.

4. Term. This Agreement shall begin on the date that is written as "(1) Agreement Start Date" on the Cover Page and shall end on the date that is written as "(5) Agreement Ending Date" on the Cover Page. Time is of the essence in this Agreement.

5. Compensation. For the Services performed during the term of this Agreement, City shall pay Consultant an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in Rates and Costs Exhibit shall be in effect through the end of this Agreement. Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services.

6. Invoices. Consultant shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Each invoice must also list the current balance on the Agreement, including that invoice, as well as the months remaining on the term of the Agreement. Invoices may be emailed to: invoices@oxnard.org.

7. Acceptance of Payment. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontractors. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

8. Non-Appropriation of Funds. Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

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

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

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

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

13. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 10 calendar days from the date of delivery or mailing of such notice. Consultant may terminate this Agreement at any time, with or without cause and without penalty, upon 30 days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 10 calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed before the date of termination. In the event of termination of this Agreement by either party due to no fault or failure of performance by Consultant, City shall pay Consultant compensation for all Services satisfactorily completed in accordance with all of the terms and provisions of this Agreement, as determined by the City, before the effective date of termination; provided, in no event shall the Consultant receive an amount exceeding that which would have been paid to Consultant for the full performance of the Services.

14. Hold Harmless, Defense and Indemnity.

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying ("design professional") services, to the maximum extent permitted by law, Consultant shall hold harmless, defend, and indemnify City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all claims, demands, causes of action, damages, injuries, liabilities, losses, penalties, fines, judgments, costs or expenses, including reimbursement of attorneys' fees, court costs and costs of alternative dispute resolution, including but not limited to those relating to death or injury to any person and injury to any property (collectively, "Claims"), to the extent that the Claims arise out of, pertain to,

or relate to the negligence, recklessness, or willful misconduct of Consultant or of any of its officers, employees, subcontractors or agents in the performance of the Agreement or in the failure to comply with any of the obligations contained in this Agreement. Consultant's obligation to defend is a separate and distinct obligation from Consultant's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, to the extent required herein immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

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

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

15. Insurance. Consultant shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within the insurance document stated in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit, which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, before performance of any Services, file with the City's Risk Manager evidence of insurance coverage as specified in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit. Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement.

16. Documents and Materials.

a. Other than for working papers prepared in accordance with professional standards promulgated by the American Institute of Certified Public Accountants (AICPA) or the Institute of Internal Auditors (IIA), 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 must request permission from the City before use, duplication or dissemination of these Documents and Materials, or for any working papers prepared in accordance with professional standards promulgated by the American Institute of Certified Public Accountants (AICPA) or the Institute of Internal Auditors (IIA), for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

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

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

17. Confidentiality of Information.

a. For the purposes of this Agreement, "Confidential Information" means all information, in whatever form transmitted, relating to the past, present or future business affairs of the City, including without limitation, (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, inventions, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulas; or (ii) non-technical information, including without limitation finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data and any other information belonging to the City or to a third party whose information is in the City's possession or control under obligations of confidentiality, and which is disclosed to Consultant or is developed by Consultant in whole or in part at the City's expense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28. Force Majeure. Neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not be limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters.

29. Authority. Any person executing this Agreement on behalf of Consultant warrants and represents that s/he has the authority to execute this Agreement on behalf of Consultant and to bind it to the performance of these obligations.

30. Binding Agreement. The parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

31. Integration: Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Consultant regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

32. Construction. In the event of any asserted ambiguity in or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of construction providing for interpretation against the party who causes the uncertainty to exist or who drafted the Agreement in whole or in part.

33. No Waiver. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

34. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other relieve to which that party may be entitled, in any legal action or other proceeding, including an action for declaratory relief, for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement.

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

VASQUEZ & COMPANY, LLP

for: *Carmen Ramirez* 11/18/2020
☒ Tim Flynn, Mayor¹ Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Agent
☐ Patricia Garcia, Buyer

Roger A. Martinez, Partner Date

Gilbert R. Vasquez, Date
 Managing Partner

ATTEST:

Michelle Ascencion 11/18/20
 Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

[Signature] 11/5/2020
 Stephen M. Fischer, City Attorney (always required) Date

¹ The City Council must authorize and the Mayor must sign any agreement over \$175,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$175,000 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.

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

VASQUEZ & COMPANY, LLP

☒ Tim Flynn, Mayor¹ _____ Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Agent
☐ Patricia Garcia, Buyer

Roger A. Martinez, Partner November 5, 2020
Date

Gilbert R. Vasquez, Managing Partner 11/5/2020
Date

ATTEST:

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

APPROVED AS TO FORM:

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

¹ The City Council must authorize and the Mayor must sign any agreement over \$175,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$175,000 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.

SCOPE OF SERVICES EXHIBIT

Upon request by the City for an audit, Consultant shall take all of the following steps:

- Clarify in writing the scope of the audit with City's Project Manager. (Should the audit implicate or potentially implicate the City's Project Manager or the City Manager's Office as a whole, Consultant shall instead clarify in writing the scope of the audit with the City's Alternate Project Manager.)
- Perform sampling procedures to test and evaluate one or more areas of the City's internal controls, taking into account risk, control weaknesses, size, and complexity of operations as audits are assigned.
- 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).
- Conduct comprehensive performance or forensic audits as assigned.
- Review administrative and financial policies, procedures, and practices, as assigned.
- Prepare reports which analyze significant risk assessment findings, recommend changes for strengthening internal controls and reducing identified risks
- Present draft results of the assigned audit to the City's Project Manager and the relevant department head or other City personnel. Provide an opportunity for feedback and response by City's Project Manager and the relevant department head or other City personnel.
- Present final results of the assigned audit to the City Council's Finance and Governance Committee and to the full City Council. Each such presentation must outline the specific deficiencies in the internal control framework, the possible impacts posed (levels of risk) due to the identified weaknesses, and the recommended changes for strengthening internal controls and reducing identified risks
- Conduct follow-up and verification of audit findings pursuant to closing findings as complete.
- Provide City staff with tools to track open audit findings and facilitate resolution of findings when complete.
- Provide quarterly written or oral status reports on progress of audits and progress of staff in addressing open audit findings to the Finance and Governance Committee.

RATES AND COSTS EXHIBIT

The following hourly rates by personnel category contain all pricing information relative to performing audit services. The hourly rates include all direct and indirect costs, including out-of-pocket expenses.

Personnel Category	Hourly Rate
Partner	\$285
Senior Manager	\$180
Manager	\$160
Supervisor	\$140
Senior	\$120
Staff	\$100

FIRST AMENDMENT TO PROFESSIONAL SERVICES

This First Amendment (“First Amendment”) to the professional services (“Agreement”) is made and entered into in the County of Ventura, State of California, this _____ day of December, 2021, by and between the City of Oxnard, a municipal corporation (“City”), and Vasquez & Company, LLP (“Consultant”). This First Amendment amends the Agreement entered into on November 18, 2020, by City and Consultant.

City and Consultant agree as follows:

1. The reference to the Rates and Costs Exhibit everywhere it is listed both on the Cover Page and in the Agreement is hereby amended to the Rates and Costs - Exhibit 1. The Rates and Costs Exhibit is hereby disincorporated; instead, the Rates and Costs - Exhibit 1 is attached hereto and incorporated herein by this reference.
2. The date “December 31, 2021,” in Section 5 of the Cover Page of the Agreement is hereby amended to “December 31, 2024.”
3. In Section 6 of the Agreement, the amount “\$25,000” is deleted and replaced with “\$100,000.”
4. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

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

CITY OF OXNARD

VASQUEZ & COMPANY, LLP

☒ John C. Zaragoza, Mayor¹ _____ Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Manager
☐ _____, Buyer

Roger A. Martinez, Partner² _____ Date

Gilbert R. Vasquez, _____ Date
Managing Partner

ATTEST:

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

APPROVED AS TO FORM:

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

¹ The City Council must authorize and the Mayor must sign the amendment if the original contract and all amendments collectively total over \$200,000 annually. The City Manager may authorize and sign the amendment if the original contract and all amendments collectively total over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign the amendment if the original contract and all amendments collectively total up to \$100,000 annually. A Buyer may authorize and sign the amendment if the original contract and all amendments collectively total up to \$25,000 annually.

² The City requires the following for any contract:

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

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

RATES AND COSTS – EXHIBIT 1

Personnel Category	Hourly Rate		
	2021/2022	2023	2024
Partner	\$285	\$294	\$303
Senior Manager	\$180	\$185	\$191
Manager	\$160	\$165	\$170
Supervisor	\$140	\$144	\$148
Senior	\$120	\$124	\$128
Staff	\$100	\$103	\$106

First Amendment with Vasquez & Company LLP for On-Call Internal Auditing Services

Finance & Governance Committee

November 23, 2021

Shiri Klima, Deputy City Manager

That the Finance and Governance Committee recommends the City Council approve and authorize the Mayor to execute a First Amendment to the Professional Services Agreement with Vasquez & Company, LLP (9051-20-CM) in the amount of \$75,000 for a not to exceed contract amount of \$100,000 and to extend the term 3 more years until December 31, 2024, for On-Call Internal Auditing Services.

- 1/28/20: F&GC heard presentation on Internal Audit Program framework
 - Staff recommended thorough performance evaluation of each department in the City once every six years
- 9/22/20: staff advised F&GC that, until the City locates a source of funding for this comprehensive Internal Audit Program, the request for proposals would be for an on-call internal auditor contract
- 11/17/20: City Council awarded professional services agreement (No. 9051-20-CM) to Vasquez & Company, LLP
 - So far, \$10,000 worth of services has been invoiced

	Original Contract	First Amendment
Term	11/18/20-12/31/21 (just over 1 year)	11/18/20-12/31/24 (adding 3 more years for just over 4 years)
Not to Exceed	\$25,000	\$100,000
Rates	List 2021 rates	List 2022-24 rates; rates increase in 2023 and again in 2024



QUESTIONS



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.3

DATE: November 23, 2021

TO: Finance & Governance Committee

FROM: Eden Alomeri, Billing and Licensing Director, (805) 385-7811, eden.alomeri@oxnard.org

SUBJECT: Ratification of the First Amendment to Agreement with Paymentus, Inc. for Credit Card Services. (0/10/10)

RECOMMENDATION

That the Finance and Governance Committee recommend the City Council ratify the first amendment to Agreement 9046-20-CT between Paymentus, Inc. and the City of Oxnard to add the function of credit card merchant processor in the scope of services to be performed by Paymentus, Inc.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/SRPuTKBgXJ4>

BACKGROUND

On December 30, 2020, the city entered into an agreement with Paymentus, Inc. ("Paymentus") to serve as the gateway to allow collection of credit card payments from customers over-the-counter and online. The gateway accepts and forwards the transaction to the credit card processor which, in turn, checks for ample funding with the issuer bank. The agreement with Paymentus amounts to \$57,098 annually.

On January 19, 2021, the city entered into the following agreements with Elavon to serve as the merchant processor for credit card payments:

- Agreement A-8268 for over-the-counter non-utility payments
- Agreement A-8269 for over-the-counter utility payments
- Agreement A-8270 for online utility payments

Under these agreements, Elavon will collect the credit card interchange fees from the city and charge a fee of 0.05% per transaction. The total amount of the three agreements for a term of three years is \$954,000.

On June 10, 2021, the conversion to Central Square HTE's cloud-based system was completed by the IT Department. This allowed Oxnard staff to commence the work on the integration with Paymentus as the gateway and Elavon as the processor. This work must be completed by December 31, 2021 as the current processor, Transaction Manager (a product of Central Square), will be discontinued on this date.

On July 5, 2021, Paymentus informed Oxnard staff that the current Elavon viaConex software (a part of the Elavon processing solution at the time the agreement was signed) was no longer recommended by Elavon and that the City would need to upgrade to the Elavon Converge software. Integration efforts were forced to be on

hold while the software issue was resolved.

On August 5, 2021, Elavon confirmed that the viaConex software was being discontinued and that the new Converge software would need to be purchased. The Elavon Converge software would have an extra cost of \$29 per month plus a \$199 one-time set-up fee for each agreement.

DISCUSSION

Upon learning that Elavon would not be able to fulfill the terms of the agreement, the staff researched other viable options. Paymentus offered to perform the services of both the gateway and the processor at no additional cost. The staff ascertained that the Paymentus system is compatible with both Central Square and Tyler Technologies and therefore recommended accepting Paymentus' offer to serve as both the gateway and processor.

Due to the total contract value, an amendment to the Paymentus agreement to include the service as the payment processor will require City Council approval. In order for the integration process to be completed before the December 31, 2021 deadline and to ensure continuity of collection of payments from customers, staff requested Mayor John C. Zaragoza and City Manager Alexander Nguyen to jointly approve the first amendment to the agreement with Paymentus. The Mayor and the City Manager approved the amendment on November 2, 2021.

Oxnard City Code Section 4-75 authorizes the City Manager and the most senior available member of the city council to approve jointly a contract if there exists, in the view of the purchasing agent, an immediate need to do so.

Staff will take action to terminate the agreement with Elavon after ratification of the agreement by the city council and a successful system integration with Paymentus.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The total cost of the three-year agreement with Elavon amounting to \$954,000 will be replaced by the amended agreement with Paymentus. With the approval of the \$954,000 amendment, the total Paymentus contract amount is \$1,125,300 or \$375K per year. The Fiscal Year 2021-22 estimated cost of this agreement is \$187,550; there is sufficient funding available in the General Fund (\$39,515.25 - 101-1201-801.84-03) and the Utility Billing Fund (\$148,034.75 - 725-1211-856.84-03). Funding for the remaining contract amount in future years will be included in the recommended budgets of each fiscal year. The merging of the gateway and processor services under one agreement will eliminate the need to pay the monthly fees and set-up fees, resulting in potential savings for the city.

Prepared by: Eden Alomeri, Billing and Licensing Director

ATTACHMENTS

1. 2021 12 First Amendment to Paymentus Agreement signed
2. 2020 Paymentus Agreement 9046-20-CT signed

AMENDING AGREEMENT

Customer:	City of Oxnard CA
Customer Address:	300 W 3 rd Street, Oxnard, CA 93030
Contact for Notices to Customer:	Eden Alomeri

This Amending Agreement is entered into as of the effective date below, by and between the Customer ("Customer") identified above and **Paymentus Corporation**, a Delaware Corporation ("Paymentus").

WHEREAS:

A - The parties entered into a Master Services Agreement dated December 30, 2020.

B - The parties now wish to amend the Master Services Agreement by updating the Schedule A to include additional services.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

Except the Schedule A, as provided in this Amending Agreement, all provisions of the Agreement remain in full force and effect, un-amended.

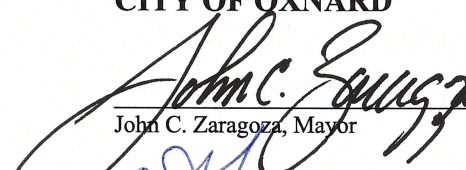
[Signatures on the page to follow]

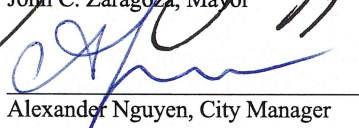
This Amending Agreement is being approved and executed by Licensee on an immediate need basis pursuant to Oxnard City Code Section 4-75 and will subsequently be presented to the Oxnard City Council for ratification. If the Oxnard City Council does not ratify this Amending Agreement, authority to perform work under this Amending Agreement will automatically terminate on the date that ratification is denied.

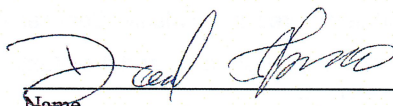
IN WITNESS WHEREOF, the parties hereto have executed the Amending Agreement on the date first written above.

CITY OF OXNARD

VENDOR/CONTRACTOR/CONSULTANT


John C. Zaragoza, Mayor
Date 11/02/2021


Alexander Nguyen, City Manager
Date 11/02/2021


Name _____ Date 10/27/21

Senior Vice President

Title


Name _____ Date 10/27/21

Senior Vice President

Title

APPROVED AS TO FORM:


Stephen M. Fischer, City Attorney
Date 11/1/2021

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.

SCHEDULE A – PAYMENTUS FEE SCHEDULE
TO THE MASTER SERVICES AGREEMENT
BETWEEN OXNARD AND PAYMENTUS

The Services will initially consist of the those indicated by a check box on the following table. The Paymentus Fee will be as specified below, and will be paid by the Client, unless designated as a User paid fee.

Check to Select the Channel	Channels	Advanced Services	Payment Methods & Channels	Paymentus Fee – Utility Payments	Check if User Paid Fee
☒	Instant Payment Network™	Ebill Presentment and Customer Engagement	All payment channels and methods offered under IPN such as PayPal, Venmo, PayPal Credit ,Secure PDF Push, Chatbot, Advanced Notification Service (ECM), Text 2 Pay, Voice Assistants,	Full pass through of all interchange, assessment and fees from Visa, MasterCard, Discover, and American Express PLUS \$0.45 per transaction \$0.45 per eCheck/ACH transaction	☐
☒	Direct Payments (Web, IVR, Recurring, Agent Assisted)	Ebill Presentment and Customer Engagement	Credit, Debit, ACH	Full pass through of all interchange, assessment and fees from Visa, MasterCard, Discover, and American Express PLUS \$0.45 per transaction \$0.45 per eCheck/ACH transaction	☐

Note:

Average payment is \$200.00. Maximum payment is \$2,000.00.

Multiple transactions can be made.

Chargebacks and returned checks will be billed at \$9.95 per item.

SCHEDULE A – PAYMENTUS FEE SCHEDULE
TO THE MASTER SERVICES AGREEMENT
BETWEEN OXNARD AND PAYMENTUS

The Services will initially consist of the those indicated by a check box on the following table. The Paymentus Fee will be as specified below, and will be paid by the Client, unless designated as a User paid fee.

Check to Select the Channel	Channels	Advanced Services	Payment Methods & Channels	Paymentus Fee – Government Payments	Check if User Paid Fee
☒	Instant Payment Network™	Ebill Presentment and Customer Engagement	All payment channels and methods offered under IPN such as PayPal, Venmo, PayPal Credit ,Secure PDF Push, Chatbot, Advanced Notification Service (ECM), Text 2 Pay, Voice Assistants,	Full pass through of all interchange, assessment and fees from Visa, MasterCard, Discover, and American Express PLUS \$0.45 per transaction \$0.45 per eCheck/ACH transaction	☐
☒	Direct Payments (Web, IVR, Recurring, Agent Assisted)	Ebill Presentment and Customer Engagement	Credit, Debit, ACH	Full pass through of all interchange, assessment and fees from Visa, MasterCard, Discover, and American Express PLUS \$0.45 per transaction \$0.45 per eCheck/ACH transaction	☐

Note:

Average payment is \$2,000.00. Maximum payment is \$20,000.00.

Multiple transactions can be made.

Chargebacks and returned checks will be billed at \$9.95 per item.

SCHEDULE B – ADDITIONAL PAYMENT SERVICES
TO THE MASTER SERVICES AGREEMENT
BETWEEN CLIENT AND PAYMENTUS

Paymentus Service Fee charged to the User will be based on one of the following table:

Encrypted Swipe Devices (optional)	
SecureMag™ (Over-the-Counter)	Two (2) included at no cost; \$225.00 per device plus shipping & handling

Outbound Notifications (optional)	
Outbound Notifications include 4,000 (phone, email and/or text) messages per month; additional usage invoiced at \$0.20 per message.	

Paymentus

MASTER SERVICES AGREEMENT

Client:	City of Oxnard, California
Client Address:	214 South C Street
Contact for Notices to Client:	Eden Alomeri, Director of Revenue and Licensing
Estimated Yearly Bills / Invoices:	125,000 bills

This Master Services Agreement ("Agreement") is entered into as of the date of the last of the signatures set forth below ("Effective Date"), by and between the Client identified above and Paymentus Corporation, a Delaware Corporation with a principal place of business at 13024 Ballantyne Corporate Parkway, Suite 400, Charlotte, North Carolina 28277.

STATEMENT OF PURPOSE

Paymentus desires to provide and Client desires to receive electronic bill payment services as more particularly described in this Agreement under the terms and conditions set forth herein.

AGREEMENT

In consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows. This Agreement consists of the following documents:

- (i) this signature page
- (ii) the General Terms and Conditions; and
- (iii) the following Schedules:
Schedule A: Paymentus Service Fee Schedule.

This Agreement represents the entire agreement between the parties with respect to its subject matter, supersedes all prior written or oral agreements or understandings related to the subject matter hereof, and may be changed only by agreements in writing signed by the authorized representatives of each of the parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representative.

CITY OF OXNARD

DocuSigned by:

Daniel Willits

12/30/2020 | 1:54 PM PST

~~Dan Willits, Purchasing Manager~~

Date

PAYMENTUS CORPORATION

Jerry Portocalis
 Jerry Portocalis, Senior Vice President

December 29, 2020

Date

APPROVED AS TO FORM:

Stephen M. Fischer

12/30/2020

Stephen M. Fischer, City
 Attorney (always required)

Date

CONFIDENTIAL AND PROPRIETARY

GENERAL TERMS AND CONDITIONS**TO MASTER SERVICES AGREEMENT BETWEEN CITY OF OXNARD, CALIFORNIA AND PAYMENTUS CORPORATION****1 Definitions:**

For the purposes of the Agreement, the following terms and words have the meaning ascribed to them, unless the context clearly indicates otherwise.

1.1 “Agreement” or “Master Agreement” means the Master Services Agreement between the parties, as amended from time to time.

1.2 “Average Bill Amount” means the total amount of Payments processed through Paymentus in a given month divided by the number of the Payments for the same month.

1.3 “Effective Date” means the date the last party to execute the Agreement does so, or if the Agreement is submitted to Client for acceptance in a manner that does not call for Paymentus to execute it, the date Client agrees to the Agreement.

1.4 “Excess Payment Amount” means the amount by which the total of all Payment Amounts from Non-Qualified Transactions processed in a calendar month exceeds 5% of the total of the Payment Amounts of all card Payments processed that month.

1.5 “Fee Assumptions” means information used to calculate the Paymentus Fee (as defined in Section 3.2), including (i) the projected Average Bill Amount, (ii) the projected payment method mix (credit vs debit vs e-check) and (iii) an assumption by Paymentus that the total Payment Amount processed each month resulting from Non-Qualified Transactions shall not exceed five percent (5%) of the total Payment Amount of all card Payments processed that month.

1.6 “Initial Setup” means the first personalization and activation of the standard service with respect to each channel described on Schedule A as specified during the implementation process.

1.7 “IPN” or “Instant Payment Network™” means the network developed by Paymentus to enable customer engagement, bill presentment and receipt of payments by businesses through multiple channels as enabled from time to time by Paymentus.

1.8 “Launch Date” means the date on which Client completes the introduction to Users of all Services selected by Client as of the Effective Date.

1.9 “Non-Qualified Transaction” means (i) a Payment made with a card or payment method generally issued for

business use that results in interchange fees or other processing charges assessed by a Paymentus Authorized Processor or card payment association that are higher than those charged for transactions with cards payment methods issued for consumer use; or (ii) a Payment that does not qualify for reduced interchange fees under programs in which is then currently participating. These high-cost cards payment methods may include, among others, corporate cards, virtual cards, purchase cards, business cards, and travel and entertainment cards.

1.10 “Payment” means payment by a User through the Platform for Client’s services, Client’s bills, or other amounts owed to Client.

1.11 “Payment Amount” means the amount of a Payment.

1.12 “Paymentus Authorized Processor” means a Paymentus authorized merchant account provider or payment processing intermediary or gateway.

1.13 “Paymentus Fee” is defined in Section 3.2.

1.14 “Platform” is defined in Section 2.1.

1.15 “Reversed or Chargeback Transactions” means cancelled transactions due to (i) User error, (ii) a User’s challenge to Payment authenticity, or (iii) an action by a financial institution or a Paymentus Authorized Processor (commonly referred to as ACH or eCheck returns or credit/debit card chargebacks).

1.16 “Services” means the performance by Paymentus of the payment and related services selected by Client as set forth in Schedule A and as provided in Section 2.3.

1.17 “User” means a user of Client’s services.

2 Description of Services to be Performed**2.1 Scope of Services**

When selected on Schedule A, Paymentus will provide Users the opportunity to view and receive bills, make Payments using the payment methods provided under Schedule A and other payment methods and wallets as offered by Paymentus from time to time. The payment methods and other services provided may be used within the channels described on Schedule A or on other websites or mobile/web apps or chatbots or voice assistants that are part of the Instant Payment Network™,

(collectively referred to as the "Platform"). Paymentus will provide a mechanism by which Client may select channels and payment methods it wishes to offer Users. Paymentus will be the exclusive provider to Client of services included in the Services.

2.2 Professionalism

Paymentus will perform in a professional manner all Services required to be performed under the Agreement.

2.3 New or Enhanced Services

From time to time Paymentus may offer Client new or enhanced services, such as new functionality within the IPN, the ability to accept other payment methods, methods of bill presentment, the ability to access alternative payment processors or other service providers or Paymentus Authorized Processors or otherwise modify the terms and conditions under which the Services are provided ("Service Enhancements"). Paymentus will provide Client with notice by email to the person designated as provided in Section 9.2 disclosing the terms, including any contracts or contract amendments, under which the Service Enhancements will be made available. If the Service Enhancements will result in additional fees to or impose additional obligations on Client or Users, Client will have thirty (30) days after the date of the notice to opt-out of the Service Enhancements in the manner provided in the notice. If Client does not opt-out, then when the Service Enhancements are introduced they will form part of the Services and Client will be bound by the additional terms as disclosed in the notice, and Schedule A will be deemed amended to reflect changes in the Services and fees.

3 Compensation

3.1 No Fee Installation

Paymentus will charge no fees related to the Initial Setup of standard service.

3.2 Paymentus Fee

Client will be billed the fees as provided in Schedule A ("Paymentus Fee"), unless a fee is User paid, in which case Paymentus will charge each User the Paymentus Fee as provided in Schedule A to be collected in addition to the corresponding Payment as part of the transaction. Paymentus will pay the corresponding processing and related fees ("Transaction Fees") except for fees related to Reversed or Chargeback Transactions.

The Paymentus Fee is based on the Fee Assumptions. Client will be billed additional Paymentus Fees equal to 3.5% of the Excess Payment Amount for each month during which there is an Excess Payment Amount.

Paymentus may amend Schedule A upon prior written notice to Client if there are changes in the card or payment system rules or changes in payment processing fees or other events that increase the cost of processing transactions, such as changes in the average Payment Amount, the mix of payment methods or of interchange rates applied to transactions. The amended Paymentus Fee will take effect 30 days after written notice to Client.

4 Payment Processing

4.1 Integration with Client's Billing System

At no charge from Paymentus to Client, Paymentus will develop one (1) file format interface with Client's billing system using Client's existing text file format currently used to post payments to Client's billing system. Client will be responsible to provide Paymentus with the one file format specification and will fully cooperate with Paymentus during the development of the said interface. If Client chooses to create an automated file integration process to download the posting file, due to Paymentus security requirements, Client will use Paymentus specified integration process. As such, the Paymentus platform does and can function independent of any billing system integration. A payment posting file can be emailed or downloaded from the Paymentus Agent Dashboard. If Client chooses to have the Paymentus platform integrated with its billing system, Paymentus offers two options:

- (i) Paymentus standard integration specification that Client can use to integrate its billing systems with Paymentus platform ("Standard Integration"); or
- (ii) Paymentus to either customize or configure its platform to integrate with Client using file specification or APIs supported by Client's billing system ("Client Specific Integration").

If Client chooses Standard Integration, Paymentus agrees to fully cooperate with Client and provide its specification to Client. Paymentus also agrees to participate in meetings with Client's software vendor to provide any information or clarifications needed to understand Standard Integration. Paymentus agrees to provide all integration/interface specifications within 30 days from the Effective Date. Client will take commercially reasonable steps to develop the integration within 60 days from the date on which Client has received all integration specifications from Paymentus.

If Client chooses Client Specific Integration, Paymentus agrees to develop that integration at no charge from Paymentus to Client, provided however, Client agrees to fully cooperate with Paymentus and cause its software vendors and other service providers to fully cooperate with Paymentus. Client agrees to provide all

specifications required for Client Specific Integration. Client further agrees to participate in testing with Paymentus and if needed, cause its billing software vendors and other service providers to participate in testing. Client agrees to provide or make available all integration/interface specifications within 30 days from the Effective Date. Paymentus will take commercially reasonable steps to develop the integration within 60 days from the date on which Paymentus has received all the integration specifications from Client or its vendors.

Parties agree that if the parties do not cooperate fully, it can lead to each party being unable to perform its duties to deliver the integration in time.

Based on Client's use of the Platform and its respective modules selected under the Agreement, Paymentus will require the following integration points:

MODULE	INTEGRATION POINT
One-time payment Module	Customer Information: Text File or Real Time Payment Posting: Text File or Real Time
Recurring Payment Module	Text File
E-billing Module for Billing Data	Text File or Real-time link to billing data
Out-bound Notification-Audience File	Text File for customer engagement messages

Each of these can be based on Standard Integration or Client Specific Integration.

The Initial Setup for the Web or IVR interface will be considered complete when the first Standard Integration or Client Specific Integration, as applicable, is completed such that Paymentus and Client are able to exchange files relevant to that interface, as contemplated in this Section 4.1. In the event the Services are implemented without integration, the Initial Setup will be considered complete when a User is able to access the Platform to process a payment.

4.2 Enhancements

The parties agree that the Services are provided on a "platform as a service" basis, and not as a result of custom software development. Paymentus' standard Platform will be personalized to achieve certain additional functional requirements of Client, as clarified and agreed during implementation ("Enhancements"). Enhancements may include some or all of the features included in any

technical requirements or similar document provided to Paymentus. The parties will fully co-operate with one another to: a) ensure that requirements with respect to Enhancements are clarified as needed; b) accept Paymentus proposed reasonable alternatives to achieve Client's functional objectives within the limits of the Paymentus platform; and c) accept Paymentus' reasonable estimates of time for completion, designs and plans with respect to agreed Enhancements. There will be no fee charged by Paymentus to Client for Enhancements, provided Paymentus designs and plans are accepted by Client. If the Services are to be offered at multiple locations, or if the Services include multiple Enhancements, the parties will agree to a phased implementation.

4.3 PCI Compliance

To the extent that either party receives payment card information subject to the Payment Card Industry Data Security Standards ("PCI-DSS") in connection with providing the Services, it will comply with all requirements of the PCI-DSS with respect to storage, transmission and disclosure of payment card information.

4.4 Explicit User Confirmation

Paymentus will confirm the dollar amount of all Payments, and when paid by the User, the corresponding Paymentus Fee to be charged and electronically obtain the User's approval of the charges prior to initiating payment authorizations transaction. Paymentus will provide User with electronic confirmation of all transactions.

4.5 Merchant Account

Paymentus will arrange for Client to have a merchant account with the Paymentus Authorized Processor for processing and settlement of transactions.

4.6 Payment Authorization.

For authorization purposes, Paymentus will electronically transmit all card or other payment transactions to the appropriate processing center, in real time as the transactions occur or as provided in applicable rules. In its discretion, Paymentus may refuse to process any transaction that is submitted in violation of its terms of use or to protect Client, Users, itself or others from potentially illegal, fraudulent or harmful transactions.

4.7 Settlement

Paymentus together with a Paymentus Authorized Processor will forward the payment transactions, and when paid by User, the corresponding Paymentus Fee to the appropriate organizations for settlement (other than the Paymentus Fee) directly to Client's depository bank

account previously designated by Client ("Client Bank Account"). When Client pays the Paymentus Fee, Paymentus will invoice Client and debit the fees from the Client Bank Account on a monthly basis.

Paymentus together with the Paymentus Authorized Processor will continuously review its settlement and direct debit processes for its simplicity and efficiencies. Client and Paymentus agree to fully co-operate with each other if Paymentus were to change its settlement and invoicing processes.

4.8 Reversed or Chargeback Transactions

With respect to all Reversed or Chargeback Transactions Client authorizes Paymentus and Paymentus Authorized Processor (and/or the respective payment organizations) to debit the Client Bank Account for the Payment Amount and Paymentus will refund to the payment organization for credit back to the User the corresponding Paymentus Fee, if any.

Paymentus together with Paymentus Authorized Processor will continuously review its processes for Reversed or Chargeback Transactions for simplicity and efficiencies. Client and Paymentus agree to reasonably co-operate with each other if Paymentus requires any change to its settlement and invoicing processes for these transactions.

5 General Conditions of Services

5.1 Service Reports

Paymentus will provide Client with reports summarizing use of the Services by Users for a given reporting period.

5.2 User Adoption Communication by Client

Client will communicate the Services as a payment option to its customers wherever Client usually communicates its other payment options.

Client will make the Services known or available to its customers by different means of customer communication including a) through bills, invoices and other notices; b) if direct payments have been activated, by providing IVR and Web payment details on Client's website including a "Pay Now" or similar link on a mutually agreed prominent place on the web site; c) if IVR payments have been activated, through Client's general IVR/Phone system; and d) other channels deemed appropriate by Client.

Paymentus will provide Client with logos, graphics and other marketing materials for Client's use in its communications with its customers regarding the Services and/or Paymentus.

5.3 Independent Contractor

Paymentus is an independent contractor.

5.4 Client's Responsibilities

In order for Paymentus to provide the Services outlined in the Agreement, Client will co-operate with Paymentus by:

- (i) Entering into (and authorizing Paymentus to do so on its behalf) all applicable merchant processing, cash management, ACH origination, or kiosk agreements, provided that Client is given notice of and approves any additional fees associated with those agreements, and providing information and consents reasonably requested in connection with the agreements.
- (ii) Keeping throughout the duration of the Agreement during which direct payments via the web is activated, a bill payment link connecting to the Paymentus Platform at a prominent and mutually agreed location on Client's website. If the IVR channel is activated, the phone number for IVR payments will also be added to the web site and as an option as part of Client's general phone system.
- (iii) Sharing User Adoption marketing as described in Section 5.2.
- (iv) Launching the Service within 30 days of Paymentus making the system available.
- (v) Dedicating sufficient and properly trained personnel to support the implementation process and its use of the Services in compliance with all laws applicable to its use of the Services.
- (vi) Providing Paymentus with the file format specification currently used to post payments to the billing system to allow Paymentus to provide Client with a posting file for posting to Client's billing system.
- (vii) Fully cooperating with Paymentus and securing the cooperation of its software and service providers and providing the information required to integrate with Client's billing system.
- (viii) Fully cooperating with Paymentus to integrate its systems with the Paymentus Platform through the use of Paymentus' APIs to enable Client's access to the IPN, if selected.

6 Indemnification and Limitation of Liability

6.1 Paymentus Indemnification and Hold Harmless

Paymentus agrees to defend and indemnify Client and its directors, officers or governing officials, or employees

(collectively, the "Client Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including reasonable attorney's fees and costs), incurred by any Client Indemnatee arising from a claim or demand brought by a third party to the extent the claim or demand alleges that the Services provided under this Agreement infringe the intellectual property rights of the third-party.

6.2 Client Indemnification and Hold Harmless

Client agrees to defend and indemnify Paymentus and its directors, officers, or employees (collectively, the "Paymentus Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including reasonable attorney's fees and costs), incurred by any Paymentus Indemnatee arising from a claim or demand brought by a third party to the extent the claim or demand relates to the underlying relationship or obligations of Client and its Users.

6.3 Indemnification Procedure

The indemnified party will give the indemnifying party prompt written notice of any claim for which indemnification is sought. The indemnifying party will have the right to control the defense and settlement of any claim, provided that any settlement that adversely affects the indemnified party requires the indemnified party's consent, which will not be unreasonably delayed or withheld. The indemnified party will not settle any claim without the consent of the indemnifying party, which will not be unreasonably delayed or withheld.

6.4 Warranty Disclaimer

Except as expressly set forth in the Agreement, Paymentus disclaims all other representations or warranties, express or implied, made to Client or any other person, including without limitation, any warranties regarding quality, suitability, merchantability, fitness, for a particular purpose or otherwise of any services or any good provided incidental to the Services provided under the Agreement.

6.5 Limitation of Liability

Notwithstanding the foregoing, Paymentus will not be liable for any lost profits, lost savings or other special, indirect or consequential damages, even if it has been advised of or could have foreseen the possibility of these damages. In no event will Paymentus be liable for any losses or damages resulting from the acts, omissions or errors of third parties or of Client or for providing agreements, instructions or information to Users as instructed by Client. Paymentus' total liability for damages for any and all actions associated with the Agreement or

the Services will in no event exceed (i) for an error or other action affecting the processing of one or more Payments, the amount of the Paymentus Fee associated with each Payment, (ii) for other claims, the amount of the Paymentus Fee (net of direct processing and other fees paid by Paymentus) paid to Paymentus ("Net Fees") in the six (6) months before the events given rise to the claim or claims arising from the same circumstances; and (iii) in no event more than the lesser of \$1,000,000.00 or the Net

7 Term and Termination

7.1 Term

The term of the Agreement will commence on the Effective Date and continue for a period of 3 (three) years ("Initial Term") from the Launch Date.

At the end of the Initial Term, the Agreement will automatically renew for successive two (2) year periods unless either Client or Paymentus provide the other party with not less than 6 (six) months prior written notice before the automatic renewal date that it elects not to automatically renew the term of the Agreement.

7.2 Material Breach

A material breach of the Agreement will be cured within 90 business days ("Cure Period") after a party notifies the other of the breach. In the event the material breach has not been cured within the Cure Period, the non-breaching party can terminate the Agreement by providing the other party with a 30 business days' notice.

7.3 Upon Termination

Upon termination of the Agreement, the parties agree to cooperate with one another to ensure that all Payments are accounted for and all refundable transactions have been completed. Upon termination, Paymentus will cease all Services being provided hereunder unless otherwise directed agreed in writing.

8. Use by Other Localities.

8.1 The parties agree that this Master Services Agreement may be extended, with the authorization of Client, to other public entities or public agencies or institutions of the United States ("Other Public Customers") to permit their use of the Master Services Agreement at the same prices and/or discounts and terms and conditions of this Master Services Agreement. If any other public entity decides to use the Master Services Agreement, Paymentus must deal directly with that public entity concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing and payment. Client acts only as the "Contracting Agent" for these public entities. It is Paymentus' responsibility to

notify the public entities of the availability of this Master Services Agreement. Other public entities desiring to use this Master Agreement must make their own legal determination as to whether the use of this Master Services Agreement is consistent with their laws, regulations, and other policies. Each public entity has the option of executing a separate contract with Paymentus. Public entities may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the Master Services Agreement's General Terms and Conditions. If, when preparing such a contract, the general terms and conditions of the public entity are unacceptable to Paymentus, Paymentus may withdraw its extension of the award to that public entity. Client shall not be held liable for any costs or damages incurred by an Other Public Customer as a result of any award extended to that Other Public Customer by Paymentus.

9 Miscellaneous

9.1 Authorized Representative

Each party will designate an individual to act as its representative, with the authority to transmit instructions and receive information. The parties may from time to time designate other individuals or change the individuals.

9.2 Notices

All notices of any type hereunder will be in writing and sent to the addresses indicated on the signature page, and except as otherwise provided in these Terms and Conditions will be given by certified mail or a national courier or by hand delivery.

Notices will be considered to have been given or received on the date the notice is physically received. Any party by giving notice in the manner set forth herein may unilaterally change the name of the person to whom notice is to be given or the address at which the notice is to be received.

9.3 Interpretation

It is the intent of the parties that no portion of the Agreement will be interpreted more harshly against either of the parties as the drafter.

9.4 Governing Law

The Agreement will be governed by the laws of the state of California, without giving effect to any principles of conflicts of law.

9.5 Severability

If a word, sentence or paragraph herein is declared illegal, unenforceable, or unconstitutional, that word, sentence or

paragraph will be severed from the Agreement, and the Agreement will be read as if that word, sentence or paragraph did not exist.

9.6 Attorney's Fees. Should any litigation arise concerning the Agreement between the parties hereto, the parties agree to bear their own costs and attorney's fees.

9.7 Confidentiality

To the extent permitted by Law, Client will not for any purpose inconsistent with the Agreement disclose to any third party or use any confidential or proprietary non-public information it has obtained during the procurement process or during the term of the Agreement about Paymentus' business, including the terms of the Agreement, operations, financial condition, technology, systems, know-how, products, services, suppliers, clients, marketing data, plans, and models, and personnel. Paymentus will not for any purpose inconsistent with the Agreement or its privacy policy in effect from time to time disclose to any third party or use any confidential User information it receives in connection with its performance of the services.

9.8 Intellectual Property

In order that Client may promote the Services and Paymentus' role in providing the Services, Paymentus grants to Client a revocable, non-exclusive, royalty-free, license to use Paymentus' logo and other service marks (the "Paymentus Marks") for this purpose only. Client does not have any right, title, license or interest, express or implied in and to any object code, software, hardware, trademarks, service mark, trade name, formula, system, know-how, telephone number, telephone line, domain name, URL, copyright image, text, script (including, without limitation, any script used by Paymentus on the IVR or the Website) or other intellectual property right of Paymentus ("Paymentus Intellectual Property"). All Paymentus Marks, Paymentus Intellectual Property, and the Platform and all rights therein (other than rights expressly granted herein) and goodwill pertain thereto belong exclusively to Paymentus.

9.9 Force Majeure

Both Parties will be excused from performing the Services to the extent its performance is delayed, impaired or rendered impossible by acts of God or other events that are beyond Paymentus' reasonable control and without its fault or judgment, including without limitation, natural disasters, war, terrorist acts, riots, acts of a governmental entity (in a sovereign or contractual capacity), fire, storms, quarantine restrictions, floods, explosions, labor strikes, labor walk-outs, extra-ordinary losses utilities (including

telecommunications services), external computer "hacker" attacks, and/or delays of common carrier.

9.10 Entire Agreement

The Agreement represents the entire agreement between the parties with respect to its subject matter and supersedes all prior written or oral agreements or understandings related to its subject matter and except as provided in the Agreement may be changed only by agreements in writing signed by the authorized representatives of the parties.

9.11 Counterparts

The Agreement and any amendment or other document related to the Agreement may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement. The Agreement and any amendment or other document related to the Agreement may be signed electronically. A photographic

or facsimile copy of the signature evidencing a party's execution of the Agreement will be effective as an original signature.

9.12 Insurance

Paymentus shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within the insurance document attached as , Schedule B which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that Paymentus obtain and maintain such insurance coverages. Maintenance of insurance coverages by Paymentus is a material element of this Agreement. Paymentus'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.

Paymentus

SCHEDULE A – PAYMENTUS FEE SCHEDULE **TO THE MASTER SERVICES AGREEMENT** **BETWEEN OXNARD AND PAYMENTUS**

The Services will initially consist of the channels indicated by a check box on the following table. The Paymentus Fee will be as specified below, and will be paid by the Client, unless designated as a User paid fee.

Check to Select the Channel	Channels	Advanced Services	Payment Methods & Channels	Paymentus Fee – C2G Gateway	Check if User Paid Fee
☐	Instant Payment Network™	Ebill Presentment and Customer Engagement	All payment channels and methods offered under IPN such as PayPal, Venmo, PayPal Credit, Secure PDF Push, Chatbot, Advanced Notification Service (ECM), Text 2 Pay, Voice Assistants,	\$0.45 per transaction for gateway services with Click2Gov	☐
☒	Direct Payments (Web, IVR, Recurring, Agent Assisted)	Ebill Presentment and Customer Engagement	Credit, Debit, ACH	\$0.45 per transaction for gateway services with Click2Gov	☐

Note: Assumes payment processing through Elavon. Chargebacks and returned checks will be billed at \$9.95 per item.

Schedule B

**INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH CYBER LIABILITY AND ERRORS AND OMISSIONS REQUIREMENT)**

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

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

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

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

d. Cyber Liability in an amount not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. If the policy is written on a claims made basis, the retroactive date must be shown and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

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

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements affecting coverage required by this Exhibit INS-W. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

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

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

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

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

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

12/20

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/24/2020

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

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

PRODUCER USI Insurance Services, LLC 2502 N Rocky Point Drive Suite 400 Tampa, FL 33607	CONTACT NAME:	
	PHONE (A/C, No, Ext): 813 321-7500	FAX (A/C, No): 813 321-7525
INSURED Paymentus Corporation 13024 Ballantyne Corporate Place Suite 450 Charlotte, NC 28277	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Ohio Security Insurance Company	NAIC # 24082
	INSURER B : Ohio Casualty Insurance Company	24074
	INSURER C : Travelers Property Cas. Co. of America	25674
	INSURER D : Travelers Indemnity Company of CT	25682
	INSURER E : Federal Insurance Company	20281
	INSURER F : National Union Fire Ins. Pittsburgh, PA	19445

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:		BKS2161834845	08/09/2020	08/09/2021	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY		BAS2161834845	08/09/2020	08/09/2021	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR		USO2161834845	08/09/2020	08/09/2021	EACH OCCURRENCE \$24,000,000
B	☒ EXCESS LIAB ☐ CLAIMS-MADE		ECO2160184673	08/09/2020	08/09/2021	AGGREGATE \$24,000,000
C	DED ☒ RETENTION \$10000		ZUP41N3024220NF	08/09/2020	08/09/2021	\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N N/A	UB7J41039320	08/09/2020	08/09/2021	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
E	Crime		82368980	08/09/2020	08/09/2021	\$10,000,000
F	Prof & Cyber		Various	08/09/2020	08/09/2021	\$130,000,000
G	Excess Crime		SAAE6066710000	08/09/2020	08/09/2021	\$20,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

*Professional & Excess Professional & Cyber Liability:

Policy #016082462 - Carrier: National Union Fire Insurance - Primary Limit: \$10,000,000

Policy #652024674 - Carrier: Continental Casualty Limit: \$10MM xs \$10MM

Policy #MTE004184207 - Carrier: Greenwich Insurance Co. - Limit: \$10MM xs \$20MM

Policy #EMU1265106 - Carrier: Hudson Specialty Insurance Co. Limit: \$10MM xs \$30MM

(See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

Oxnard CA 305 West 3rd Street Oxnard, CA 93030	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>B. M. Carl</i>

DESCRIPTIONS (Continued from Page 1)

Policy #P00100003847003 - Carrier: Axis Insurance Co. - Limit: \$10MM xs \$40MM
Policy #03124681 - Carrier: Allied World Specialty Insurance Co - Limit: \$10MM xs \$50MM
Policy #PRX30001908400- Carrier: Endurance Risk Solutions/Sompo - Limit: \$10MM xs \$60MM
Policy #XMF2009205 - Carrier: Freedom Specialty Insurance Co. -Limit: \$10MM xs \$70MM
Policy #B1636N201890 - Carrier: Lloyds of London - Limit: \$5MM xs \$80MM
Policy #B1636N201882 - Carrier: Lloyds of London. - Limit: \$10MM xs \$85MM
Policy #ZUP61N31086 - Carrier: Travelers Property Casualty Company of America - Limit: \$5MM xs \$95MM
Policy #B1636N201883 - Carrier: Lloyds of London Limit \$10MM xs \$100MM
Policy #B1636N201884 - Carrier: Lloyds of London Limit \$10MM xs \$110MM
Policy #B1636N201885 - Carrier: Lloyds of London Limit \$10MM xs \$120MM

Primary Crime Coverage:

Carrier: Federal Insurance Company

Policy #8236-8980

Effective: 8/09/2020 - 8/09/2021

Employee Theft - \$10,000,000 Limit / \$250,000 Retention

Premises - \$10,000,000 Limit / \$250,000 Retention

In Transit - \$10,000,000 Limit / \$250,000 Retention

Forgery - \$10,000,000 Limit / \$250,000 Retention

Computer Fraud - \$10,000,000 Limit / \$250,000 Retention

Funds Transfer Fraud - \$10,000,000 Limit / \$250,000 Retention

Money Orders & Counterfeit Currency Fraud - \$10,000,000 Limit / \$250,000 Retention

Client Card Fraud - \$10,000,000 Limit / \$250,000 Retention

Client - \$10,000,000 Limit / \$250,000 Retention

Expense - \$250,000 Limit / NA

Social Engineering Fraud Coverage - \$250,000 Limit / \$250,000 Retention

Excess Crime Coverage:

Carrier: Great American Insurance Company

Policy #SAAE6066710000

Effective: 8/09/2020 - 8/09/2021

\$20,000,000 excess of \$10,000,000

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
ENDORSEMENT – CALIFORNIA
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

The additional premium for this endorsement shall be 2.00 % of the California workers' compensation premium.

Schedule

Person or Organization

ANY PERSON OR ORGANIZATION FOR
WHICH THE INSURED HAS AGREED
BY WRITTEN CONTRACT EXECUTED
PRIOR TO LOSS TO FURNISH THIS
WAIVER.

INCLUDING:

COBB COUNTY, ITS OFFICERS,
OFFICIALS, EMPLOYEES, AGENTS,
AND VOLUNTEERS

Job Description

ACCOUNTANTS

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium

Insurance Company

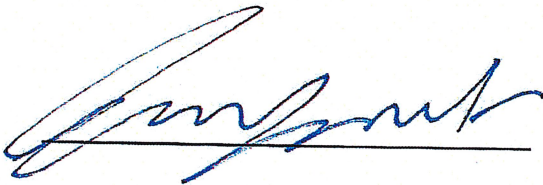
Countersigned by _____

Paymentus has authorized the individuals listed below as signatories with the powers to commit the organization to a binding agreement.

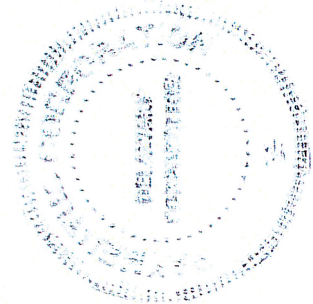
Jerry Portocalis, Senior Vice President

David Shapiro, Senior Vice President Client Operations

Mark Solan, Vice President Client Implementations

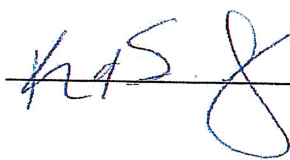
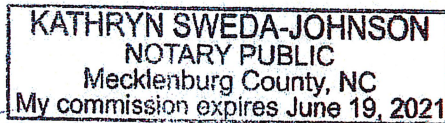


Dushyant Sharma
President and CEO



Affirmed to and subscribed before me this 29 day of August, 2019.

(Official Seal)



Notary Public

My commission expires June 19, 2021.



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.4

DATE: November 23, 2021

TO: Finance & Governance Committee

FROM: Betsy George, Chief Financial Officer, 805-200-5400, betsy.george@oxnard.org

SUBJECT: Second Amendment to Agreement A-8012 with NHA Advisors for financial advisory services, disclosure compliance, and CDIAC reporting services. (0/5/5)

RECOMMENDATION

That the Finance and Governance Committee recommends the City Council approve and authorize the Mayor to execute a Second Amendment to Professional Services Agreement No. A-8012 with NHA Advisors for a five-year extension in the amount of \$100,000 per year (\$500,000 total for the amendment or, including the prior amount, \$800,000 total contract).

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/H9P1w1Jofp4>

BACKGROUND

In 2017, the Finance Department issued a request for proposals (RFP) for financial advisory services. The RFP was based on the approach recommended by the Government Finance Officers Association of the United States and Canada (GFOA) in its publication "A Guide for Selecting Financial Advisors and Underwriters". The City received six proposals responsive to that RFP, and on October 3, 2017, the City Council awarded Agreement No. A-8012 to NHA Advisors.

At that time, the City had more than \$18 million in outstanding variable-rate wastewater and General Fund bond debt that was accruing significant increases in Letter of Credit (LOC) fees with a lack of banks available to provide a renewal. In addition, a swap tied to the City's 2004B wastewater bond issue and \$27.8 million lease bond issue had been outstanding, with a termination value of \$6.5 million. This variable rate/swap/LOC risk, under 1x coverage for both utilities in multiple years combined with other challenges such as drought related revenue reductions; a voter led Proposition 218 litigation initiative; an inability to raise rates due to political challenges; and significant staff turnover at the executive levels led to several rating downgrades and a negative credit outlook for the sewer enterprise.

NHA's initial work for the City consisted of helping to negotiate a new LOC for both variable rate issues, working closely with the prior LOC bank to execute several extensions to assist with this short-term solution. Once the new LOC was locked in, NHA turned its attention to the City's credit rating. NHA helped prepare a comprehensive rating presentation for the City's General Fund and for the water and wastewater funds. The credit strategy focused on a new five-year rate increase package that was approved by Council. Throughout this process, the City's wastewater rating was unchanged, but its outlook was raised from negative to positive. This stabilization, combined with Finance staff and NHA's comprehensive clean-up of the City's

historical continuing disclosure compliance and implementation of new continuing disclosure compliance procedures, allowed NHA to help bring several restructurings to the marketplace after years of challenges for the City accessing the municipal market.

NHA also helped the City execute a \$24.6 million wastewater refunding (refunding of 2004B and 2006 wastewater bonds), which also terminated the swap and put all the City's debt into fixed rate mode. In addition, NHA helped the City execute a \$40.4 million refunding of its 2006 water bonds. The City obtained a two-notch rating upgrade from "BBB" to "A-" for the sewer bonds and was able to obtain extremely aggressive bond insurance bids.

DISCUSSION

The City's original 2017 agreement with NHA Advisors for financial advisory services was for 3 years and \$300,000. On September 29, 2020, that contract was administratively amended to extend the agreement until December 31, 2021 (without any amendment to cost). \$224,073 of that has been spent thus far. This includes \$120,381 for continuing disclosure work, \$45,471 for financial projection and analysis, \$28,088 for general consulting, and \$30,133 for work related to the City's pension liability (education workshops, staff meetings and analysis).

Staff is requesting another \$100,000 per year for a five-year extension of the contract (\$500,000 total for the amendment or, including the prior amount, \$800,000 on the contract). This includes financial advisory services. Financial advisory services could be in the form of bond debt restructuring analysis, PERS/PARS retirement analysis, OPEB analysis, or other types of financial assistance that may be needed. Additionally, staff proposes expanding disclosure and CDIAC reporting compliance services. Staff believes NHA has been doing tremendous work for the City and advises the Committee to continue on this path by moving this item to Council to extend this contract.

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

Costs for the Financial Advisor will be incurred by an hourly basis. These costs will either be directly booked to the appropriate fund (i.e., General Fund, Utility Fund, etc.) for work done that directly impacts a particular fund, or the general costs will be allocated to all funds through the City's cost allocation model. No budget appropriation is necessary. There is sufficient funding in Fiscal Year 2021-22 to cover the estimated costs for the remainder of the current fiscal year. Funding for future years costs will be included in the respective budget of each Fiscal Year (2022-23 through 2025-26).

Prepared by: Betsy George, Chief Financial Officer, Shiri Klima, Deputy City Manager

ATTACHMENTS

1. A-8012 NHA Advisors - Original Agreement
2. A-8012 NHA Advisors - First Amendment
3. 2021_11_23 NHA Presentation
4. NHA Second Amendment to A-8012 with Amendments

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("**Agreement**") is made and entered into in the County of Ventura, State of California, this 11 day of September, 2017, by and between the City of Oxnard, a municipal corporation ("**City**"), and NHA Advisors ("**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 coordinated with Jim Throop ("**Manager**"), subject to the direction of the City Manager or Department Manager.

6. Place of Work

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

7. Correction of Errors

Consultant agrees to correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.

8. Time for Performance

The Services performed under this Agreement shall be completed 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 Manager of such delays.

9. Principal in Charge

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

10. Permits, Licenses, Certificates

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

11. City's Responsibility

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

12. Term of Agreement

This Agreement shall begin on October 1, 2017, and expire on December 31, 2020. The City will have the option to extend the agreement for two (2) additional one (1) year periods.

13. Termination

a. This Agreement may be terminated by City without cause if Manager notifies Consultant, in writing, of Manager's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice. City

agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated by Consultant without cause if Consultant notifies Manager, in writing, of Consultant's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed prior to the date of termination.

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$300,000.00 for the Services at 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 Manager with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service.

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

15. Method of Payment

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

b. Consultant agrees to maintain current monthly records, books, documents, papers, accounts and other evidence pertaining to the Services performed and costs incurred. Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant shall provide Manager with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

16. Responsibility for Expenses

Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services. All expenses incident to the performance of the Services shall be borne by the Consultant, including, but not limited to rent, vehicle, and travel, entertainment and promotion, general liability and health insurance, workers' compensation insurance, and all compensation and benefits of employees or agents engaged by Consultant. Consultant shall, at its own cost and expense, supply all personal property necessary or appropriate to perform the Services provided for under this Agreement, including, but not limited to any personal property used by employees and agents of Consultant in the performance of such Services.

17. Non-Appropriation of Funds

Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

18. Records

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

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

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

19. Maintenance and Inspection of Records

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services

to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead.

20. Confidentiality of Information

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

21. Hold Harmless, Indemnity and Defense

a. For architectural, landscape architectural, engineering or land surveying services only:

(1) 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 that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, or its employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, 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 active negligence or willful misconduct of the Indemnified Party, then Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability.

(2) The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Indemnified Party immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Consultant are responsible for the liability shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

b. For everything else:

(1) 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, arising out of or resulting from or in connection with Consultant’s performance of this Agreement or Consultant’s failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, 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.

(2) The duty to defend is a separate and distinct obligation from Consultant’s duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Indemnified Party immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys’ fees and defense costs.

c. For services under both 21a and 21b, the review, acceptance or approval of Consultant’s work or work product by the Indemnified Party shall not affect, relieve or reduce Consultant’s indemnification or defense obligations. This Section shall survive completion of the Services or termination of this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

22. Insurance

a. Consultant shall obtain and maintain during the performance of the Services the insurance coverages as specified in **Exhibit INS-A**, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages.

b. Consultant shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-A**. Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in **Exhibit INS-A**.

c. Maintenance of proper insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

23. Independent Contractor

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

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

c. Consultant acknowledges that Consultant and Consultant's employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, or health, life, dental, long-term disability and workers' compensation insurance benefits.

24. Consultant Not Agent

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

25. Conflict of Interest

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

26. Assignability of Agreement

Consultant agrees that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's personnel's unique competence, experience and specialized personal knowledge. Assignments of any or all rights, duties, or obligations of Consultant under this Agreement will be permitted only with the express written consent of Manager, which consent may be withheld for any reason.

27. Successors and Assigns

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

28. Fair Employment Practices

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

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

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

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

29. Force Majeure

Consultant and City agree that neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include, but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

30. Time of Essence

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

31. Covenants and Conditions

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

32. Governing Law

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

33. Compliance with Laws

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

34. Severability

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

35. Waiver

City and Consultant agree that no waiver of a breach of any provision of this Agreement by either Consultant or City shall constitute a waiver of any other breach of the same provision or any other provision of this Agreement. Failure of either City or Consultant to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

36. Counterparts

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

37. Arbitration

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

38. Expenses of Enforcement

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

39. Authority to Execute

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

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

40. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to NHA Advisors, 4040 Civic Center Drive, Suite 200, San Rafael, CA 94903, Attention: Craig Hill, Principal.

b. Any notices to City may be delivered personally or by mail addressed to City of Oxnard, Finance Department, 300 W. Third Street, Suite 302, Oxnard, California 93030, Attention: Jim Throop, Chief Financial Officer.

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 10/10/17
☒ Tim Flynn, Mayor (if agreement is \$250,000.01 or more) Date
☐ Greg Nyhoff, City Manager (if agreement is \$25,000.01-\$250,000.00)
☐ Jim Throop, Purchasing Agent (if agreement is up to \$25,000.00)

CONSULTANT

GCH 9/15/17
 Craig Hill, Principal Date
Mark Northcross 9/15/17
 Mark Northcross, Principal Date

ATTEST:

Michelle Ascencion 10/11/17
 Michelle Ascencion, City Clerk Date
 (if agreement is \$250,000.01 or more)

APPROVED AS TO FORM:

[Signature] 9/19/17
 Stephen M. Fischer, City Attorney Date
 (required for any agreement amount)

APPROVED AS TO CONTENT:

[Signature] 9/18/17
 Jim Throop, Project Manager (required for any agreement amount) Date
[Signature] 9/18/17
 Jim Throop, Department Head (if agreement is \$25,000.01 or more) Date

APPROVED AS TO AMOUNT:

[Signature] 11 Oct 2017
 Greg Nyhoff, City Manager (if agreement is \$250,000.01 or more) Date

APPROVED AS TO INSURANCE:

[Signature] 10/9/17
 Mike More, Risk Manager (required for any agreement amount) Date

The City requires the following for any contract:

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

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

PLEASE DO NOT REMOVE THIS BOX

EXHIBIT A

SCOPE OF SERVICES

Financial Advisor tasks and responsibilities.

A. Advise and assist the City in the development, structure and timing of the issuance of bonds in accordance with applicable laws, customs, and practices governing such issuance.

B. Advise and assist the City in considering and structuring various modes of financing, including but not limited to refundings, taxable bonds, credit-enhancement, leased equipment financings, general obligation bonds, pension obligation bonds, redevelopment bonds, and lease revenue bonds/certificates of participation that maximize the resources available to produce a financially sound and cost-effective transaction.

C. Advise on the amount, timing, and nature of borrowings, as well as the credit structure, maturity schedule, call provisions and other matters which may assist the City in obtaining the lowest practical interest cost and the widest competition for purchase of its bonds, as needed.

D. Advise on the merits of competitive, negotiated or private placement of debt.

E. Analyze and make recommendations relating to various financing options so as to secure the lowest practical interest rate; enhance the marketability of the bonds; achieve the widest competition for bond purchase to include retail, institutional, and other investor classes; and achieve optimal leverage of City resources, while maintaining a prudent level of risk, through debt obligations. Identify the advantages and disadvantages of any recommendations.

F. Assist in the preparation of the preliminary and final official statements, notices of sale (competitive offerings), other appropriate information to prospective bond and note investors, and any materials required to facilitate the sale of the bonds.

G. Assist in the preparation and review of legal and financing documents in coordination with City Attorney, bond counsel, underwriter's counsel (if any), disclosure counsel, City Staff, and other relevant parties. These documents shall include regulations, rules, proposed legislation, and other documents relating to the City's financing programs.

H. Assist in preparing and presenting timely and adequate information on proposed financings and the City's finances and operations to the bond rating agencies and institutions providing credit enhancement.

I. Evaluate the terms and recommendation of acceptance, rejection or renegotiation with respect to sale bids or final pricing as applicable. This includes confirmation of competitive bids, and verification reports in the case of refundings.

J. Advise on such matters as bond registration, printing, and other matters related to the settlement and delivery of the bonds or notes, as required.

K. Assist with preparation of RFP/Q's and evaluation of proposals for the procurement of:

- Credit enhancements, including LOC's and bond insurance
- Investment banking services
- Financial printing
- Competitive offerings
- Paying Agent or Trustee
- Escrow Agent, if required
- Verification Agent, if required
- Any other agents or consultants as required by the City

L. In the case of competitive offerings, assume responsibility for the following:

- Preparation and advertisement of Notice of Sale
- Preparation of Bid Form
- Advice as to manner of bid procedures
- Management of competitive bidding procedures
- Analyze the bids and identify the most favorable bid

M. Attend (in person or by telephone, as required) meetings related to debt offerings and participation in the deliberations at such meetings, including:

- Preparation of Official Statement with the entire working group
- Due diligence
- Rating agency presentations
- Investors' presentation
- Acquiring Insurance
- Pricing
- Closing

N. Provide ongoing financial advisory services as necessary, including:

- Review financial issues with the rating agencies (and arrange and support calls and meetings) relating to specific debt issues and to periodic updates.
- Evaluate unsolicited financial proposals received by the City, including, but not limited to refundings and alternate forms of financing vehicles like risk management products.
- Provide advice on investor relations and assistance in preparation of related presentation materials.

O. Advise and assist the City in structuring short-term financing programs including tax revenue anticipation notes, lines of credit, letters of credit, commercial paper programs, or other financings, as required.

P. Assist the City in drafting and preparing Continuing Disclosure documents for the investor

community.

Q. Assist the City when necessary in the negotiation and preparation of any agreements between the City and other jurisdictions participating in any financing program.

R. As necessary, resolve issues regarding the sale and issuance of bonds that are raised by prospective purchasers, rating agencies, or public officials.

S. As requested, prepare and maintain projected debt service, debt outstanding and other schedules related to City debt for use in the City budgeting processes and official statements.

T. Provide other technical assistance on debt financings, bond ratings and financing alternatives as requested by the City.

U. Prepare a comprehensive "Final Pricing Book" for the financing transaction.

Expanded Financial Advisor Responsibilities

SEC and CDIAC compliance

A. Provide advice and assistance to help the City implement the provisions of SB 1029 and CDIAC's related transparency regulations.

B. Provide advice and assistance in development of a disclosure policy and related procedures. Participate in the disclosure process in compliance with the policy and procedures adopted by the City Council.

C. Brief City staff on SEC Rule 15c2-12 disclosure requirements and assure that disclosure policies and procedures conform to SEC requirements.

D. Coordinate compliance work with the City Attorney's office and attorneys providing Bond or Disclosure Counsel services.

Investor Relations Program

A. Provide advice and assistance in the planning, design and implementation of a robust investor relations program consistent with GFOA's Best Practice – Maintaining an investor relations program.

B. Analyze the risks and barriers the City faces in issuing debt at reasonable cost to prioritize the investor relations effort.

C. Participate in investor relations related activity planning and execution, coordinated with attorneys when necessary.

Rate swaps and Letters of Credit

- A. Rapidly assess technical issues presented by the variable rate debt, letters of credit and interest rate swaps, analyze and present options and analyze related risks.
- B. Contact Union Bank/MUFG, RBC and potential replacement LOC providers to assure a professional, well controlled process for working through the issues facing the City while building confidence among capital market participants.
- C. Help city staff initiate and complete critical steps to resolve issues.
- D. Work with, City staff and counsel to provide briefings and presentations for the City Manager, City Attorney and City Council that are consistent and credible.

EXHIBIT B

SCHEDULE OF SERVICES

The Services described in Exhibit A and other services that may be mutually agreed upon by the parties to the agreement shall be performed during the period starting October 1, 2017 and December 31, 2020, with the option to extend the agreement for two (2) additional one (1) year periods. The City shall estimate and propose budgets the amount required for each fiscal year through consultation by the Manager and the Consultant. Before commencing work on assignments that could exceed appropriated amounts, Consultant will provide information as required to support requests for appropriate funding.

EXHIBIT C

COMPENSATION RATES

Compensation relating to planned debt issuance shall be compensated based on amounts approved by the Manager based on the size and complexity of the proposed debt issue. The following guidelines should be considered when budgets are prepared for funds related to the planned debt issuance.

Debt type	Compensation range
Amounts are Negotiated for each bond issue	
Tax and Revenue Anticipation Notes	\$20,000 - \$32,500
General Obligation and Lease Revenue Bonds	\$42,500 - \$67,500
Lease Revenue Bonds/Certificates of Participation	\$42,500 - \$67,500
Tax Allocation Bonds	\$57,500 - \$92,500
Assessment Districts	\$37,500 - \$72,500
Community Facilities District	\$47,500 - \$72,500
Revenue Bonds	\$47,500 - \$87,500

ADVISORY SERVICES (CONSULTING)

For projects that do not have a defined financial solution from inception, Contractor will approach these assignments objectively without prejudice for a bond financing. For projects that are not directly tied to the issuance of any obligations, or at the request of the City, Contractor will provide financial advisory/consulting services on an hourly basis. Contractor hourly professional billing rates are shown in the table below.

Person	Hourly Rate
Principal	\$325
Vice President	\$250
Associate	\$175
Analyst	\$125
Administrative	\$75

Compensation for services covered by this contract shall not in any case exceed the amount of \$300,000 appropriated by the City Council for Financial Advisory Services.

FIRST AMENDMENT TO PROFESSIONAL SERVICES

This First Amendment ("First Amendment") to the Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 29th day of September, 2020 by and between the City of Oxnard, a municipal corporation ("City"), and NHA Advisors ("Consultant") This First Amendment amends the Agreement entered into on September 11, 2017, by City and Consultant.

City and Consultant agree as follows:

1. The date in Section 12 of the Agreement is hereby amended to "December 31, 2021".
2. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

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

CITY OF OXNARD

Patricia Garcia 3/18/21
☐ Tim Flynn, Mayor¹ Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Manager
☒ Patricia Garcia, Buyer

NHA ADVISORS

GCAD September 29, 2020
 Craig Hill, Principal Date
Mark Northcross September 29, 2020
 Mark Northcross, Principal Date

ATTEST:

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

APPROVED AS TO FORM:

Stephen M. Fischer 9/23/2020
 Stephen M. Fischer, City Attorney (always required) Date

¹ The City Council must authorize and the Mayor must sign the amendment if the original contract and all amendments collectively total over \$200,000 annually. The City Manager may authorize and sign the amendment if the original contract and all amendments collectively total over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign the amendment if the original contract and all amendments collectively total up to \$100,000 annually. A Buyer may authorize and sign the amendment if the original contract and all amendments collectively total up to \$25,000 annually.

Second Amendment with NHA Advisors for Financial Advisory, Disclosures Compliance, and CDIAC Reporting Services

Finance & Governance Committee

November 23, 2021

Betsy George, Chief Financial Officer

That the Finance and Governance Committee recommends the City Council approve and authorize the Mayor to execute a Second Amendment to Professional Services Agreement No. A-8012 with NHA Advisors for a five-year extension in the amount of \$100,000 per year (\$500,000 amendment or, including the prior amount, \$800,000 total contract).

- 09/13/2017: Fiscal Policy Task Force heard presentation on Financial Advisor RFP and selection process
 - Staff recommended selecting NHA as the City's new Financial Advisor
- 10/03/2017: City Council awarded professional services agreement (No. A-8012) to NHA Advisors
 - To date \$224,073 worth of services has been invoiced
- 09/29/2020: contract was administratively amended to extend agreement through 12/31/2021
 - Not To Exceed remained unchanged at \$300,000

	Original Contract	First Amendment	Second Amendment
Term	10/01/2017-12/31/20 (just over 3 year)	01/01/2020 - 12/31/2021 (adding 1 more years for just over 4 years)	01/01/2021 - 12/31/2026 (adding 5 more years for just over 9 years)
Not to Exceed	\$300,000	No Change	\$800,000
Rates	List 2017 rates	2017 Rates	List 2022 rates



QUESTIONS

SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Second Amendment ("Second Amendment") to the Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this ____ day of December, 2021, by and between the City of Oxnard, a municipal corporation ("City"), and NHA Advisors ("Consultant"). This Second Amendment amends the Agreement entered into on September 11, 2017 by City and Consultant.

City and Consultant agree as follows:

1. The expiration date in Section 12 of the Agreement is hereby amended to "December 31, 2026"
2. In Section 14 of the Agreement the amount "\$300,000.00. is hereby deleted and replaced with to "\$800,000.00".
3. Exhibit A is deleted from the agreement and Exhibit A-1, attached hereto, is incorporated into the Agreement.
4. The date "December 31, 2020 in Exhibit B of the Agreement is hereby amended to "December 31, 2026"
5. Exhibit C is deleted from the agreement and Exhibit C-1, attached hereto, is incorporated into the Agreement.
6. Exhibit D-1, attached hereto, is incorporated into the Agreement
7. As so amended, the Agreement remains in full force and effect.

CITY OF OXNARD

CONSULTANT

John C. Zaragoza, Mayor

Craig Hill, Principal

ATTEST:

Mark Northcross, Principal

Rose Chapparo, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT A-1

SCOPE OF SERVICES

GENERAL ADVISORY SERVICES (CONSULTING), MUNICIPAL ADVISORY SERVICES (CONTINGENT), & CONTINUING DISCLOSURE AND CDIA REPORTING COMPLIANCE SERVICES

Responsibilities

- Advise and assist the City in the development, structure and timing of the issuance of bonds in accordance with applicable laws, customs, and practices governing such issuance.
- Advise and assist the City in considering and structuring various modes of financing, including but not limited to refundings, taxable bonds, credit-enhancement, leased equipment financings, general obligation bonds, pension obligation bonds, redevelopment bonds, and lease revenue bonds/certificates of participation that maximize the resources available to produce a financially sound and cost-effective transaction.
- Advise on the amount, timing, and nature of borrowings, as well as the credit structure, maturity schedule, call provisions and other matters which may assist the City in obtaining the lowest practical interest cost and the widest competition for purchase of its bonds, as needed.
- Advise on the merits of competitive, negotiated, or private placement of debt.
- Analyze and make recommendations relating to various financing options to secure the lowest practical interest rate; enhance the marketability of the bonds; achieve the widest competition for bond purchase to include retail, institutional, and other investor classes; and achieve optimal leverage of City resources, while maintaining a prudent level of risk, through debt obligations. Identify the advantages and disadvantages of any recommendations.
- Assist in the preparation of the preliminary and final official statements, notices of sale (competitive offerings), other appropriate information to prospective bond and note investors, and any materials required to facilitate the sale of the bonds.
- Assist in the preparation and review of legal and financing documents in coordination with City Attorney, bond counsel, underwriter's counsel (if any), disclosure counsel, City Staff, and other relevant parties. These documents shall include regulations, rules, proposed legislation, and other documents relating to the City's financing programs.
- Assist in preparing and presenting timely and adequate information on proposed financings and the City's finances and operations to the bond rating agencies and institutions providing credit enhancement.
- Evaluate the terms and recommendation of acceptance, rejection, or renegotiation with respect to sale bids or final pricing as applicable. This includes confirmation of competitive bids, and verification reports in the case of refundings.
- Advise on such matters as bond registration, printing, and other matters related to the settlement and delivery of the bonds or notes, as required.

- Assist with preparation of RFP/Q's and evaluation of proposals for the procurement of:
 - Credit enhancements, including LOCs and bond insurance
 - Investment banking services
 - Financial printing
 - Competitive offerings
 - Paying Agent or Trustee
 - Escrow Agent, if required
 - Verification Agent, if required
 - Any other agents or consultants as required by the City

- In the case of competitive offerings, assume responsibility for the following:
 - Preparation and advertisement of Notice of Sale
 - Preparation of Bid Form
 - Advice as to manner of bid procedures
 - Management of competitive bidding procedures
 - Analyze the bids and identify the most favorable bid

- Attend (in person or by telephone, as required) meetings related to debt offerings and participation in the deliberations at such meetings, including:
 - Preparation of Official Statement with the entire working group
 - Due diligence
 - Rating agency presentations
 - Investors' presentation
 - Acquiring Insurance
 - Pricing
 - Closing

- Provide ongoing financial advisory services as necessary, including:
 - Review financial issues with the rating agencies (and arrange and support calls and meetings) relating to specific debt issues and to periodic updates.
 - Evaluate unsolicited financial proposals received by the City, including, but not limited to refundings and alternate forms of financing vehicles like risk management products.
 - Provide advice on investor relations and assistance in preparation of related presentation materials.

- Advise and assist the City in structuring short-term financing programs including tax revenue anticipation notes, lines of credit, letters of credit, commercial paper programs, or other financings, as required.

- Assist the City in drafting and preparing Continuing Disclosure documents for the investor community.

- Assist the City, when necessary, in the negotiation and preparation of any agreements between the City and other jurisdictions participating in any financing program.
- As necessary, resolve issues regarding the sale and issuance of bonds that are raised by prospective purchasers, rating agencies, or public officials.
- As requested, prepare and maintain projected debt service, debt outstanding and other schedules related to City debt for use in the City budgeting processes and official statements.
- Provide other technical assistance on debt financings, bond ratings and financing alternatives as requested by the City.

SEC and CDIAC compliance

- Provide advice and assistance to help the City implement the provisions of SB 1029 and CDIAC's related transparency regulations.
- Provide advice and assistance in development of a disclosure policy and related procedures. Participate in the disclosure process in compliance with the policy and procedures adopted by the City Council.
- Brief City staff on SEC Rule 15c2-12 disclosure requirements and assure that disclosure policies and procedures conform to SEC requirements
- Coordinate compliance work with the City Attorney's office and attorneys providing Bond and Disclosure Counsel services.

Rate Swaps, Letter of Credit and Investor Relations

- Rapidly assess technical issues presented by the variable rate debt, letters of credit and interest rate swaps, analyze and present options and analyze related risks.
- Contact Union Bank/MUFG, RBC and potential replacement LOC providers to assure a professional, well controlled process for working through the issues facing the City while building confidence among capital market participants.
- Help City staff initiate and complete critical steps to resolve issues.
- Work with City staff and counsel to provide briefings and presentations for the City Manager, City Attorney and City Council that are consistent and credible.
- Provide advice and assistance in the planning, design, and implementation of a robust investor relations program consistent with GFOA's Best Practice – Maintaining an investor relations program.
- Analyze the risks and barriers the City faces in issuing debt at reasonable cost to prioritize the investor relations effort.
- Participate in investor relations related activity planning and execution, coordinated with attorneys when necessary.

Additional General Consulting Services

◆ General Financial Assistance

- Work with City staff to review and provide advice on operational budgets
- Develop financial models for funding capital needs
- Assist in appropriate disclosure for annual financial reporting
- Assist in appropriate continuing disclosure for outstanding obligations requiring annual filing
- Review and respond to general questions related to public finance
- Assist staff with reports or information items related to financing strategies or opportunities
- Respond to general inquiries from staff

◆ Development Finance

- Review proposed development plans for public infrastructure requirement or other possible financeable components
- Develop initial funding model and tax impact of potential bond financing
- Work with City staff and property owner to understand financial impact of project scoping on future property tax collections
- Develop non-capital (services) funding vehicle if requested by the City
- Work with City staff, consultants, and property owner to develop funding agreement

◆ Utility Financing

- Review the City's existing bond obligations
- Develop financial model addressing coverage requirements and future parity capacity
- Calculate feasibility of refinancing any outstanding obligations
- Develop financing options

◆ General Fund Financing

- Review the City's existing general fund obligations
- Calculate feasibility of refinancing any outstanding obligations
- Develop financing options

- Budget and cash flow review and analysis
- ◆ **Presentation to City Council, Staff or Other Stakeholders (as requested)**
 - Develop presentation materials or memos detailing financing information
 - Present information in any format as determined by City staff

Financing Transaction (if applicable)

- ◆ **Project Management**
 - Manage financing process, including assembly of the financing team and assignment of tasks for all parties involved in the financing.
 - Provide information and advice on the timing of the financing process and develop timeline (schedule) of tasks.
 - Upon request, work with City staff to solicit and select a registered broker-dealer (underwriter or placement agent), bond/disclosure counsel, trustee service provider, or other consultants that may be required as part of financing process. Provide recommendation(s) and negotiate preferred terms and pricing for said consultant(s).
- ◆ **Quantitative Analysis and Financial Structuring**
 - Prepare, review, analyze, and provide structuring advice for the proposed financing and or refinancing.
 - Evaluate the method of sale (private placement or public offering), bond structure, legal approach, and financial advantages for each alternative, including the financing terms and call provisions.
 - Analyze credit enhancement options (bond insurance and reserve surety bond policies).
 - Meetings or conference calls with credit enhancement or insurance companies to discuss the transaction, as appropriate.
- ◆ **Project Implementation**
 - Provide advice on the financing structure for incorporation into financing documents.
 - Coordinate the efforts of bond counsel, disclosure counsel, and/or any other legal counsel to prepare the financing documents for approval by the City Council.
 - Review financing documents to ensure accuracy with the financing plan.
 - Upon request, NHA Advisors will make presentations or attend meetings with the City Council or stakeholders to answer questions about the financing and process.

- Work with selected financing partner or funding source to determine optimal bond structure, including serial/term bonds, premium/discount bonds, and redemption provisions.
- If a public offering method of sale is utilized:
 - Coordinate preparation of a comprehensive credit presentation to the rating services and bond insurance companies, if applicable.
 - Work with disclosure counsel to assemble the official statement (investor disclosure document) for the financing in a manner consistent with existing laws, regulations, and standards of the securities industry.
 - If completed as a negotiated sale, assist the City in the negotiation of underwriting spreads and interest rates for the proposed financing. Monitor the underwriter's sales effort to ensure the lowest financing costs are achieved.
 - Assist with the solicitation of an investment advisor to coordinate investment of bond proceeds and/or accounts, as necessary.
 - If completed as a competitive sale, engage a nationally recognized firm to market the bonds and establish a bidding platform.
 - Coordinate the delivery, printing and final approval of legal documents, and the preparation of closing certificates and final official statement.
- If a private placement method of sale is utilized:
 - Prepare a credit package for potential investor banks.
 - If a placement agent has been engaged, work with placement agent to solicit bids from various banks that invest in municipal debt.
 - Upon request from City staff, if no placement agent has been engaged for a privately placed loan (non-municipal security), NHA Advisors will solicit bids from potential investors.
 - Manage bond or loan pricing and final financing structure (debt service and bond terms).
 - Coordinate the delivery, final approval of legal documents, and the preparation of closing certificates.
- Work with bond counsel to finalize documents for execution by the City.
- Prepare or coordinate preparation of a closing memorandum outlining a detailed flow of funds at the time of closing

Continuing Disclosure and CDIAC Reporting Compliance Services

The City and its related entities (the "City") are required to file periodic disclosure reporting with the Municipal Securities Rulemaking Board ("MSRB"), California Debt and Investment Advisory Commission

("CDIAC"), and in some cases, with the underwriter, bond insurer, trustee, or other parties for the City's debt obligations. The City desires to appoint NHA Advisors, LLC ("NHA Advisors") to assist with the compliance of these obligations.

A. MSRB Continuing Disclosure Compliance (Rule 15c2-12):

The City has publicly offered bond transactions requiring annual continuing disclosure reports ("Annual Reports") to be filed on the Electronic Municipal Market Access ("EMMA") system. Each obligation has distinct disclosure requirements. The primary reporting requirements generally include the filing of:

- Audited financial statements
- Other financial information and operating data
- Other material information
- Notices of Significant Events

NHA Advisors will provide the following services:

- Prepare Annual Reports
- Supervise and direct the City on issues related to its disclosure obligations
- Notify the City of pending due dates
- Assist in the tracking of rating changes and other Significant Events
- Prepare Significant Events notices, as necessary
- Post Annual Reports, notices, and other required documentation to EMMA
- File a report with the City certifying that each Annual Report has been provided pursuant to this Continuing Disclosure Certificate
- Review continuing disclosure requirements in preliminary official statements and draft bond documents
- Provide ongoing support to City staff as questions arise regarding its continuing disclosure obligations

NHA Advisors will make its best efforts to monitor rating changes for both the issuer and bond insurer, if applicable, for each outstanding obligation as well as the other Significant Events listed below. To best meet this objective, open lines of communication between the City and NHA Advisors are vital.

The City must notify NHA Advisors immediately upon the occurrence of a Significant Event. Significant Events generally include:

- 1) Principal and interest payment delinquencies
- 2) Non-payment related defaults
- 3) Unscheduled draws on debt service reserves reflecting financial difficulties
- 4) Unscheduled draws on credit enhancements reflecting financial difficulties
- 5) Substitution of credit or liquidity providers, or their failure to perform
- 6) Adverse tax opinions or events affecting the tax-exempt status of the security
- 7) Modifications to rights of security holders
- 8) Bond calls and tender offers
- 9) Defeasances
- 10) Release, substitution, or sale of property securing repayment of the securities
- 11) Rating changes

- 12) Bankruptcy, insolvency, receivership or similar event of the obligated person
- 13) Consummation of a merger, consolidation, or acquisition
- 14) Appointment of a successor or additional trustee or the change of name of a trustee
- 15) Incurrence of a financial obligation affecting security holders
- 16) Default, event of acceleration, termination event, modification of terms, or similar event

B. CDIAC Annual Debt Transparency Reporting (SB 1029):

Effective January 1, 2017, state and local issuers are required to submit an annual debt transparency report for any issue of debt for which they have submitted a Report of Final Sale to CDIAC during the reporting period. The annual debt transparency report is due to CDIAC no later than January 31st of each year (beginning January 31, 2018) for any debt outstanding at any point during the prior fiscal year.

CDIAC has developed an online form, which is expected to evolve over time. NHA Advisors will work with the City to complete and file these reports with CDIAC prior to January 31st each year.

C. CDIAC Yearly Fiscal Status Reporting (“YFSR”):

(i) Marks-Roos

Any joint powers authority (“Authority”) selling bonds on or after January 1, 1996 that uses the proceeds to acquire one or more local obligations is required to report annually on the fiscal status of the Authority bonds and the local obligations acquired. Reports must be submitted to CDIAC no later than October 30th each year.

(ii) Mello-Roos

Issuers of community facilities district (“CFD”) bonds after January 1, 1993 are required to report annually on certain information about the bonds. All issuers, regardless of when bonds are sold, are required to report any draw on reserve or default that occurs throughout the calendar year. Reports must be submitted to CDIAC no later than October 30th each year.

NHA Advisors will work with the City to ensure that all reports are completed and filed with CDIAC prior to October 30th each year.

D. Private Placement Debt and Other Loan Reporting:

Future Obligations

If the City issues privately placed debt or other loans that require reporting to the purchaser or other parties, NHA Advisors will assist the City with the disclosure obligations as outlined in the governing document (continuing disclosure agreement, indenture, term sheet, etc.).

EXHIBIT C-1

COMPENSATION RATES & SCHEDULE

Staff Allocation	Hourly Rate
Principal	\$325
Director / Senior Vice President	\$300
Vice President	\$275
Assist. Vice President / Sr. Associate	\$250
Associate	\$225
Senior Analyst	\$200
Analyst	\$175
Administrative	\$100

GENERAL ADVISORY SERVICES (CONSULTING)

Contractor will be compensated based upon the hourly rate schedule provided. Contractor will invoice the City monthly for time and approved expenses incurred during the engagement.

MUNICIPAL ADVISORY SERVICES (CONTINGENT)

For work described in the Scope of Services, compensation will be contingent on completion of the financing and is expected to be paid from proceeds of the transaction. Fees are based on method of sale, financing structure, complexity, series of bonds, funding source, and time required to manage the financing process.

Base Municipal Advisory Services

The transaction is expected to utilize one of the following methods of sale: (1) private placement with a private party or bank (requiring no public offering disclosure document), (2) negotiated public offering with a pre-selected underwriter, or (3) competitive public offering engaging an underwriter through a competitive sale. Based on the method of sale, Contractor will receive a fee for services as follows.

Project Type	Fee Range
Tax and Revenue Anticipation Notes	\$20,500 - \$32,500
General Obligation Bonds	\$42,500 - \$67,500
Certificates of Participation	\$42,500 - \$67,500
Tax Allocation Bonds	\$57,500 - \$92,500
Revenue Bonds	\$47,500 - \$87,500
Assessment Districts	\$37,500 - \$72,500
Community Facilities Districts	\$47,500 - \$72,500

Additional Services

Credit Rating Process (as Needed) – For services related to a credit rating process, Contractor will receive a fee for services as follows.

Credit Rating Process	Fee
Short-Term Cash Flow Financing	\$5,000
Bond, Loan or Other Debt Financing	\$10,000

In-Person Meetings (Upon Request) – Contractor will be reimbursed \$1,500 for each in-person meeting. Contractor will participate on conference calls and virtual meetings at no additional cost to the City.

Request for Proposals (Upon Request) – If the City has not engaged consultants to provide certain services required as part of financing process, at the City’s direction, Contractor will undertake the solicitation of one or more of these parties for the fees outlined in the following rate table.

Request for Proposal Process	Fee
Broker-Dealer (Underwriter/Placement Agent)	\$5,000
Bond/Disclosure Counsel	\$2,500
Special Tax Consultant	\$2,000
Fiscal Consultant	\$1,500
Trustee	\$1,000

Bank/Investor Bid Process (Upon Request) – Contractor will solicit bids for a privately placed loan (non-municipal security) where a placement agent has not been engaged, Contractor will receive an additional fee of \$5,000.

Expenses (Out-of-Pocket)

All expenses will be billed directly at cost to the City. Expenses will be limited to those necessary for completion of the project.

CONTINUING DISCLOSURE AND CDIAC REPORTING COMPLIANCE SERVICES

For work described in the Scope of Services, Contractor will be compensated as follows.

1) MSRB Continuing Disclosure Compliance (Rule 15c2-12):

For services described in Subtask A of the Scope of Services, Contractor shall be paid a fixed annual fee payable upon successful submission of the Annual Reports. The following table provides a snapshot of the initial fees associated with the City’s current obligations:

Existing MSRB Continuing Disclosure Reporting	Paid By	Annual Fee ⁽¹⁾⁽²⁾
2019A Lease Revenue Bonds	General Fund	\$2,000 ⁽³⁾
2018 Lease Revenue Refunding Bonds	General Fund	\$1,000
2014 Lease Revenue Refunding Bonds	General Fund	\$1,000
	Subtotal:	\$4,000
2020 Gas Tax Revenue Refunding Bonds	Gas Tax Fund	\$2,000 ⁽³⁾
	Subtotal:	\$2,000
2021 Water Revenue Refunding Bonds	Water Fund	\$2,500 ⁽³⁾
2018 Water Revenue Refunding Bonds	Water Fund	\$1,000
2010 Water Revenue Bonds, Series B	Water Fund	\$1,000

	Subtotal:	\$4,500
2018 Wastewater Revenue Refunding	Wastewater Fund	\$2,500 ⁽³⁾
2014 Wastewater Revenue Refunding Bonds	Wastewater Fund	\$1,000
	Subtotal:	\$3,500
2008 HERO Project Tax Allocation Bonds	Successor Agency	\$2,750
2006 Tax Allocation Bonds	Successor Agency	\$2,500
2004 Tax Allocation Refunding Bonds	Successor Agency	\$2,750
	Subtotal:	\$8,000
2004 Certificates of Participation	Housing Authority	\$1,000
	Subtotal:	\$1,000
2012 Local Obligation Revenue Bonds, Series A&B*	Assessment District	\$500
2003 AD 2000-1 Limited Obligation Improvement Bonds*	Assessment District	\$500
	Subtotal:	\$1,000
Grand Total Annual Fee		\$24,000

* NHA will serve in a compliance oversight capacity only, providing reminders to special tax consultant and/or assessment engineer to help the City comply with its continuing disclosure obligations and maintain a database of historical compliance.

- 1) Excludes the cost of data from third-party sources, if required. Data costs will be passed on to the City with no additional markup.
- 2) In the event that the City's audited financial statements are not available prior to the reporting due date and Contractor is required to file both unaudited and audited reports, Contractor has the option to assess a \$500 refiling fee for each obligation that requires a second filing.
- 3) Represents annual fee for first series of bonds issued. Each additional series issued by that credit will be charged an annual fee of \$1,000. Assumes continuing disclosure requirements for subsequent issues are similar to existing requirements. If reporting requirements for subsequent issues vary significantly from existing requirements, a fee will be charged that is commensurate with the amount of work required.

As additional debt is issued, new continuing disclosure obligations will be billed at the flat fees shown below, on a case-by-case basis, based on the amount of work required for each obligation:

Future MSRB Continuing Disclosure Reporting	Annual Fee
General Obligation Bonds	\$1,000-\$2,250
Certificates of Participation/Lease	\$1,000-\$2,500
Utility Revenue Bonds (Water, Sewer, etc.)	\$1,000-\$2,750
Gas Tax Bonds	\$1,000-\$2,500
Land Secured Bonds	\$1,000-\$3,500
Tax Allocation Bonds	\$1,000-\$3,500
Other	\$1,000-\$3,500

2) CDIAC Annual Debt Transparency Reporting (SB 1029):

For services described in Subtask B of the Scope of Services, Contractor shall be paid a fixed **annual fee of \$500 per report**, payable upon successful submission of the reports. It is estimated that the City will have no fewer than four (4) obligations that require CDIAC Annual Debt Transparency Reporting in January 2021.

CDIAC Annual Debt Transparency Reporting	Paid By	Annual Fee
2018 Lease Revenue Refunding Bonds (Authority Report)	General Fund	\$500
2018 Lease Revenue Refunding Bonds (Obligor Report)	General Fund	\$500
2019A Lease Revenue Bonds (Authority Report)	General Fund	\$500
2019A Lease Revenue Bonds (Obligor Report)	General Fund	\$500
2018 Water Revenue Refunding Bonds	Water Fund	\$500
2018 Wastewater Revenue Refunding	Water Fund	\$500
2020 Gas Tax Revenue Refunding Bonds	Gas Tax Fund	\$500
Total Annual Fee		\$3,500

3) CDIAC Yearly Fiscal Status Reporting:

a. Marks-Roos

For services described in Subtask C(i) of the Scope of Services, Contractor shall be paid a fixed **annual fee of \$400 per report**, payable upon successful submission of the reports. At present, Contractor is not aware of any City obligations outstanding that require Marks-Roos CDIAC Yearly Fiscal Status Reporting.

Marks-Roos CDIAC Yearly Fiscal Status Reporting	Paid By	Annual Fee
2018 Lease Revenue Refunding Bonds (Authority Report)	General Fund	\$400
2018 Lease Revenue Refunding Bonds (Obligor Report)	General Fund	\$400
2019 Lease Revenue Bonds (Authority Report)	General Fund	\$400
2019 Lease Revenue Bonds (Obligor Report)	General Fund	\$400
2021A Water Revenue Refunding Bonds (Authority Report)	Water Fund	\$400
2021A Water Revenue Refunding Bonds (Obligor Report)	Water Fund	\$400
2006 Local Obligation (Authority Report)	Successor Agency	\$400
2006 Local Obligation (Obligor Report - HERO)	Successor Agency	\$400
2006 Local Obligation (Obligor Report - Ormond)	Successor Agency	\$400
2006 Local Obligation (Obligor Report - Southwinds)	Successor Agency	\$400
Total Annual Fee		\$4,000

b. Mello-Roos

For services described in Subtask C(ii) of the Scope of Services, Contractor shall be paid a fixed **annual fee of \$750 per report**, payable upon successful submission of the reports. At present, Contractor is not aware of any City obligations outstanding that require Mello-Roos CDIAC Annual Debt Transparency Reporting.

Mello-Roos CDIAC Yearly Fiscal Status Reporting	Paid By	Annual Fee
None*	N/A	\$0
Total Annual Fee		\$ 0

* This City's assessment engineer and/or special tax consultant are expected to prepare and file these reports with CDIAC.

4) Private Placement Debt and Other Loan Reporting:

Future Obligations

In the event that the City issues additional privately placed debt or other loans that require periodic reporting, the annual fee will be commensurate with the amount of work required and the Future MSRB Continuing Disclosure Reporting fee schedule provided in Subtask A of the Scope of Services.

Grand Total Annual Fee - The initial combined annual fee for the services outlined in this Continuing Disclosure and CDIAC Reporting Compliance Services section will be **\$31,500***.

Grand Total Continuing Disclosure and CDIAC Reporting Compliance Services*	Projected On-going Annual Fee
Subtask A: MSRB Continuing Disclosure Compliance	\$24,000
Subtask B: CDIAC Annual Debt Transparency Reporting	\$3,500
Subtask C(i): Marks-Roos CDIAC Yearly Fiscal Status Reporting	\$4,000
Subtask C(ii): Mello-Roos CDIAC Yearly Fiscal Status Reporting	\$0
Subtask D: Private Placement Debt and Other Loan Reporting	\$0
Grand Total Annual Fee	\$31,500

* As prior obligations mature or new debt is issued, the Scope of Services and annual budget for services will change in accordance with the fees outlined above.

Out-of-Pocket Expenses - No reimbursable expense shall be incurred without prior approval from the City. All expenses will be billed directly at cost to the City. Expenses will be limited to third-party contractor work and data purchases required to secure specific information required to complete the respective reports.

EXHIBIT D-1

MUNICIPAL ADVISOR DISCLOSURES

Fiduciary Duty

NHA Advisors, LLC (“NHA Advisors”) is registered as a Municipal Advisor with the U. S. Securities and Exchange Commission (“SEC”) and Municipal Securities Rulemaking Board (“MSRB”). As such, NHA Advisors has a fiduciary duty to the City and must provide both a Duty of Care and a Duty of Loyalty that entail the following.

Duty of Care:

- a) exercise due care in performing its municipal advisory activities;
- b) possess the degree of knowledge and expertise needed to provide the City with informed advice
- c) make a reasonable inquiry as to the facts that are relevant to the City’s determination as to whether to proceed with a course of action or that form the basis for any advice provided to the City; and
- d) undertake a reasonable investigation to determine that NHA Advisors is not forming any recommendation on materially inaccurate or incomplete information; NHA Advisors must have a reasonable basis for:
 - i. any advice provided to or on behalf of the City;
 - ii. any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the City, any other party involved in the municipal securities transaction or municipal financial product, or investors in the City securities; and
 - iii. any information provided to the City or other parties involved in the municipal securities transaction in connection with the preparation of an official statement.

Duty of Loyalty:

NHA Advisors must deal honestly and with the utmost good faith with the City and act in the City’s best interests without regard to the financial or other interests of NHA Advisors. NHA Advisors will eliminate or provide full and fair disclosure (included herein) to the City about each material conflict of interest (as applicable). NHA Advisors will not engage in municipal advisory activities with the City as a municipal entity, if it cannot manage or mitigate its conflicts in a manner that will permit it to act in the City’s best interest.

Conflicts of Interest and Other Matters Requiring Disclosures

As of the commencement date of the Project, there are no actual or potential material conflicts of interest, other than those noted below, that NHA Advisors is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If NHA Advisors becomes aware of any material potential conflict of interest that arises after this disclosure, NHA Advisors will disclose the detailed information in writing to the City in a timely manner.

The following are potential conflicts of interest to be considered.

- NHA Advisors represents that in connection with the issuance of municipal securities, NHA Advisors may receive compensation from the City for services rendered, which compensation is contingent upon the successful closing of a transaction and/or is based on the size of a transaction. Consistent with the requirements of MSRB Rule G-42, NHA Advisors hereby discloses that such contingent and/or transactional compensation may present a potential

conflict of interest regarding NHA Advisors' ability to provide unbiased advice to enter into such transaction. This potential conflict of interest will not impair NHA Advisors' ability to render unbiased and competent advice or to fulfill its fiduciary duty to the City.

- NHA Advisors' fees under this Project are based on hourly fees of NHA Advisors' personnel, with the aggregate amount equaling the number of hours worked by such personnel times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest because it could create an incentive for NHA Advisors to recommend alternatives that would result in more hours worked. This conflict of interest will not impair NHA Advisors' ability to render unbiased and competent advice or to fulfill its fiduciary duty to the City.
- The fee paid to NHA Advisors increases the cost of investment to the City. The increased cost occurs from compensating NHA Advisors for municipal advisory services provided.
- NHA Advisors serves a wide variety of other clients that may, from time to time, have interests that could have a direct or indirect impact on the interests of another NHA Advisors client. For example, NHA Advisors serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to the City. These other clients may, from time to time and depending on the specific circumstances, have competing interests. In acting in the interests of its various clients, NHA Advisors could potentially face a conflict of interest arising from these competing client interests. NHA Advisors fulfills its regulatory duty and mitigates such conflicts through dealing honestly and with the utmost good faith with the City.
- NHA Advisors does not have any affiliate that provides any advice, service, or product to or on behalf of the City that is directly or indirectly related to the municipal advisory activities to be performed by NHA Advisors.
- NHA Advisors has not made any payments directly or indirectly to obtain or retain NHA Advisors' municipal advisory business.
- NHA Advisors has not received any payments from third parties to enlist NHA Advisors' recommendation to the City of its services, any municipal securities transaction, or any municipal finance product.
- NHA Advisors has not engaged in any fee-splitting arrangements involving NHA Advisors and any provider of investments or services to the City.
- NHA Advisors does not have any legal or disciplinary event that is material to the City's evaluation of the municipal advisory or the integrity of its management or advisory personnel.
- NHA Advisors does not act as principal in any of the transaction(s) related to this Project.
- During the term of the municipal advisory relationship, this disclosure will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this disclosure and the revised writing will be promptly delivered to the City.

Pursuant to MSRB Rule G-10, on Investor and Municipal Advisory Client Education and Protection, Municipal Advisors are required to provide certain written information to their municipal entity and obligated person clients which include the following:

- NHA Advisors is currently registered as a Municipal Advisor with the SEC and the MSRB.
- Within the MSRB website at www.msrb.org, City may obtain the Municipal Advisory client brochure that is posted on the MSRB website. The brochure describes the protections that may be provided by the MSRB Rules along with how to file a complaint with financial regulatory authorities.

Legal Events and Disciplinary History

NHA Advisors does not have any legal events and disciplinary history on its Form MA and Form MA-I, which includes information about any criminal actions, regulatory actions, investigations, terminations,

judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. The City may electronically access NHA Advisors' most recent Form MA and each most recent Form MA-I filed with the Commission at the following website:

www.sec.gov/edgar/searchedgar/companysearch.html

There have been no material changes to a legal or disciplinary event disclosure on any Form MA or Form MA-I filed with the SEC.

Recommendations

If NHA Advisors makes a recommendation of a municipal securities transaction or municipal financial product or if the review of a recommendation of another party is requested in writing by the City and is within the scope of the engagement, NHA Advisors will determine, based on the information obtained through reasonable diligence of NHA Advisors whether a municipal securities transaction or municipal financial product is suitable for the City. In addition, NHA Advisors will inform the City of:

- the evaluation of the material risks, potential benefits, structure, and other characteristics of the recommendation;
- the basis upon which NHA Advisors reasonably believes that the recommended municipal securities transaction or municipal financial product is, or is not, suitable for the City; and
- whether NHA Advisors has investigated or considered other reasonably feasible alternatives to the recommendation that might also or alternatively serve the City objectives.

If the City elects a course of action that is independent of or contrary to the advice provided by NHA Advisors, NHA Advisors is not required on that basis to disengage from the City.

Record Retention

Effective July 1, 2014, pursuant to the SEC record retention regulations, NHA Advisors is required to maintain in writing, all communication and created documents between NHA Advisors and the City for five (5) years.