

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
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY

Meeting Location: Council Chambers, 305 West Third Street

May 3, 2022

Appointment Items - 5:00 PM

Regular Meeting - 6:00 PM

Zoom details to call-in for public comment during a meeting:

- 1. Dial Phone Number: (888) 475-4499**
- 2. Enter Meeting ID: 860 3290 4133**
- 3. Passcode: 624083**

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 City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room.

The public may 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. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.
2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING
 - a. 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/citymeetings.
 - b. Submit an email to cityclerk@oxnard.org no later than 3 p.m. on the day of the meeting (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.
 - c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.
3. PROVIDING PUBLIC COMMENTS REMOTELY DURING THE MEETING
 - a. To provide public comment during the meeting dial (888) 475-4499 and enter the Meeting ID and Passcode listed above as the Zoom details for this meeting. When the Mayor announces the particular item on the agenda you want to speak on, press *9 to raise your hand while in the zoom waiting room. Once called on, press *6 to unmute your phone.
 - b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

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 / Council Discussion / Public Comment)

May 3, 2022

PAGE 2

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

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

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council

B. APPOINTMENT ITEMS (5:00 PM)

1. Cultural & Community Services Department

SUBJECT: Senior Services Commission Annual Report. (5/5/5)

RECOMMENDATION: That City Council receives the Senior Services Commission annual report.

Legislative Body: City Council

Contact: Terrel Harrison, (805) 385-7994

2. SUBJECT: Presentation by the Youth Coalition of Oxnard on Waste Disposal Research and Improvement. (20/5/5)

C. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

D. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Month of May, 2022 as "Older Americans Month."
2. SUBJECT: Presentation of a Proclamation Designating the Month of May, 2022 as "Asian American and Pacific Islander Heritage Month."
3. SUBJECT: Presentation of a Proclamation Designating the Week of May 15 - 21, 2022 as "Public Works Week."
4. SUBJECT: Presentation of a Proclamation Designating the Month of May, 2022 as "Building Safety Month."

E. 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.

F. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager/Executive Director/Secretary shall report on items of interest to the legislative body occurring since the last meeting. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. Such items may only be referred to the City

Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion.

G. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS

At this time, a member of the legislative body may make a brief announcement, or make a brief report on his or her activities. Further, members of the legislative body may request to schedule consideration of whether to place an item on a future agenda. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. The member's report shall not exceed three minutes, unless additional time is granted by the presiding officer.

H. REVIEW OF INFORMATION/CONSENT AGENDA

The members of the legislative body will consider whether to remove Information/Consent Agenda items for discussion later during the meeting.

I. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

At this time, a person may address the legislative body only on matters appearing on the information/consent agenda. The presiding officer shall limit public comments to three minutes.

J. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the March 15, 2022 regular meetings as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Community Development Department

SUBJECT: First Amendment to Agreement for Environmental Services with Rincon Consultants and Environmental Science Associates.

RECOMMENDATION: That the City Council execute a First Amendment with Rincon Consultants, Inc., and Environmental Science Associates (ESA), to increase Agreements #9062-20-CD and #9077-20-CD by \$200,000 for Rincon Consultants, and \$100,000 for ESA, respectively, for revised not-to-exceed amounts of \$400,000 and \$300,000, respectively.

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

3. Community Development Department

SUBJECT: Adoption of Ordinance No. 3015 - Portofino Place: A request for a General Plan Amendment to change the 2030 General Plan land use designation of a 7.61-acre site located along the south side of Fifth Street at the intersection of Portofino Place (south of the Oxnard Airport) (APNs: 185-0-221-025, 185-0-221-265, and 185-0-223-015) from Business Research Park (BRP) to Residential Medium (RM) (PZ 20-620-02); a Zone Change from Business Research Park to Multiple-Family (R-2) (PZ 20-570-02), and a Tentative Subdivision Map (Tract No. 6064) for condominium purposes (PZ 20-300-02) to allow for the construction of 90, two-story condominium dwelling units and associated site improvements.

RECOMMENDATION: That the City Council adopt Ordinance No. 3015 approving Planning and

Zoning Permit No. 20-570-02 (Zone Change) to change the zoning of the project site from Business Research Park to Multiple-Family (R-2).

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

4. Public Works Department

SUBJECT: Agreement A-8444 with Pirate California Holdings, LLC dba Pirate Staffing for Temporary and Supplemental Labor Services at the Del Norte Regional Recycling and Transfer Station.

RECOMMENDATION: That the City Council authorize the Mayor to execute Agreement A-8444 with Pirate California Holdings, LLC dba Pirate Staffing in an amount not to exceed \$800,000 for a three-year term, for temporary and supplemental labor services at the Del Norte Regional Recycling and Transfer Station.

(Public Works and Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

5. Public Works Department

SUBJECT: Agreements for a Total Value of \$10,700,000 for Supply and Delivery of Chemicals to Wastewater, Water and Recycled Water Facilities.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the following Agreements for the supply and delivery of chemicals to Water, Wastewater, and Recycled Water Facilities through June 30, 2024 as follows:

1. Agreement A-8445 with HASA, Inc., in the amount not to exceed \$1,000,000 for the supply and delivery of sodium hypochlorite to the Oxnard Wastewater Treatment Plant;
2. Agreement A-8446 with JCI Jones Chemicals, Inc., in the amount not to exceed \$100,000 for the supply and delivery of sodium bisulfite to the Oxnard Wastewater Treatment Plant;
3. Agreement A-8447 with Pencco, Inc., the amount not to exceed \$2,500,000 for the supply and delivery of ferric chloride to the Oxnard Wastewater Treatment Plant and Ferrous Chloride to Oxnard Lift Station 6;
4. Agreement A-8448 with Univar Solutions USA, Inc., in the amount not to exceed \$150,000 for the supply and delivery of sodium hydroxide to the Oxnard Wastewater Treatment Plant Headworks Facility;
5. Agreement A-8449 with HASA, Inc., in the amount not to exceed \$600,000 for the supply and delivery of sodium hypochlorite to the Oxnard Water Campus, Blending Station No. 3, and Advanced Water Purification Facility;
6. Agreement A-8450 with Hill Brothers Chemical Company in the amount not to exceed \$300,000 for the supply and delivery of aqueous ammonia to the Oxnard Water Campus and Blending Station No. 3;
7. Agreement A-8451 with King Lee Chemical Company dba King Lee Technologies in the amount not to exceed \$550,000 for the supply and delivery of Antiscalant Pretreat Plus 0100 to the Oxnard Water Campus and Advanced Water Purification Facility;
8. Agreement A-8452 with Miles Chemical Company, Inc. in the amount not to exceed \$1,250,000 for the supply and delivery of hydrogen peroxide and liquid lime to the Advanced Water Purification Facility;
9. Agreement A-8453 with Pacific Star Chemical dba Northstar Chemical in the amount not

May 3, 2022

PAGE 5

to exceed \$1,500,000 for the supply and delivery of sodium hydroxide, and citric acid to the Oxnard Water Campus and Advanced Water Purification Facility;

10. Agreement A-8454 with Univar Solutions USA, Inc. in the amount not to exceed \$2,750,000 for the supply and delivery of sodium bisulfate, and sulfuric acid to the Advanced Water Purification Facility.

(Public Works and Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

6. City Attorney Department

SUBJECT: Adoption of a Just Cause Eviction And Tenant Protection Ordinance and a Rent Stabilization Ordinance.

RECOMMENDATION: That the City Council:

1. Adopt Ordinance No. 3012 adding Article I to Chapter 27 of the Oxnard City Code that is entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE I TO CHAPTER 27 OF THE OXNARD CITY CODE ESTABLISHING JUST CAUSE EVICTIONS AND OTHER TENANT PROTECTIONS”

2. Adopt Ordinance No. 3013 adding Article II to Chapter 27 of the Oxnard City Code that is entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE II TO CHAPTER 27 OF THE OXNARD CITY CODE ESTABLISHING RENT STABILIZATION REGULATIONS INCLUDING PROHIBITING RESIDENTIAL REAL PROPERTY RENTAL RATE INCREASES THAT EXCEED FOUR PERCENT (4%) ANNUALLY”

Legislative Body: City Council

Contact: Stephen Fischer, Emilio Ramirez, (805) 385-7483, (805) 385-8094

K. PUBLIC HEARINGS

1. Public Works Department

SUBJECT: Five Year Capital Improvement Program for Fiscal Years 2022-2027. (0/15/15)

RECOMMENDATION: That the City Council:

1. Hold a public hearing to receive public testimony regarding the proposed 2022-2027 City of Oxnard Five-Year Capital Improvement Program; 2. Approve and authorize the Fiscal Year 2022-23 & 2023-24 projects to be selected from the Proposed 2022-2027 City of Oxnard Five Year Capital Improvement Program; and
3. Adopt the 2022-2027 City of Oxnard Five Year Capital Improvement Program.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the April 26, 2022 Public Works and Transportation Committee. Staff is available to answer any

questions.)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/6ibQu-BEMDI>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

L. REPORTS

1. City Treasurer

SUBJECT: City Treasurer's Monthly Investment Report for the Period Ending March 31, 2022.

RECOMMENDATION: That the City Council receive and file the report.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/4f51B4ByeEA>

Legislative Body: City Council

Contact: Phillip Molina, (805) 385-7808

2. Finance Department

SUBJECT: Adopt a resolution approving Water Infrastructure Finance and Innovation Act ("WIFIA") Loan from the U.S. Environmental Protection Agency ("EPA"). (10/5/5)

RECOMMENDATION: That the City Council adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.

That the Board of Directors of the City of Oxnard Financing Authority adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.

(Presentation will be live upon Consultant's request.)

Legislative Body: City Council

Contact: Betsy George, (805) 200-5400

3. Public Works Department

SUBJECT: Fifth Amendment to Agreement A- 8094 with WKE, Inc. for Rice Avenue at Fifth Street/State Route 34 Grade Separation. (0/5/5)

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Fifth Amendment with WKE, Inc. Agreement A-8094 in the amount of \$495,559.48, for a new not to exceed contract value of \$9,500,957.18 to complete the Plans, Specifications and Estimates for the Rice Avenue at Fifth Street/State Route 34 Grade Separation, Project 133101.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the Capital Improvement Program budget, which was previously approved by the City Council.)

May 3, 2022

PAGE 7

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/tE_3cdm_nvs

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

M. ADJOURNMENT



CITY COUNCIL AGENDA REPORT

APPOINTMENT ITEMS (5:00 PM) AGENDA ITEM NO. B.1

DATE: May 3, 2022

TO: City Council

FROM: Terrel Harrison, Cultural & Community Services Director, (805) 385-7994, terrel.harrison@oxnard.org

SUBJECT: Senior Services Commission Annual Report. (5/5/5)

RECOMMENDATION

That City Council receives the Senior Services Commission annual report.

BACKGROUND

The Senior Services Commission's annual report to Council traditionally is given in the month of May to highlight Older Americans Month and the great programs offered through Oxnard Senior Services. The live presentation will include highlights of programs and services offered in 2021, the second year of COVID-19. This was a year of adaptation and resilience as we closed programs yet continued to search for ways to meet the needs of the senior community. Outdoor programs were developed to keep safety in the forefront, while senior nutrition became an absolute necessity for many. It continues to be the mission of Senior Services to evaluate, promote and encourage new and existing activities and services that enhance the quality of life for the seniors of Oxnard.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Marisue Eastlake, RDVP Director

ATTACHMENTS

None



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.1

DATE: May 3, 2022
TO: City Council
FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org
SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of the March 15, 2022 regular meetings as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 03 15 2022 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
March 15, 2022

A. ROLL CALL, POSTING OF AGENDA

At 4:33 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran, Mayor Pro Tem Bryan A. MacDonald, and Mayor John C. Zaragoza were present.

Housing Authority Commissioner Jose Andrade arrived at 6:00 p.m., Commissioner Francisco Vega was absent.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Ashley Golden, Assistant City Manager; Jennie Kelly, Assistant City Attorney; Steve Naveau, Director of Human Resources; Jason Benites, Police Chief; Kenneth Rozell; Jason Zaragoza, Deputy City Attorney; Joe Pearson II, AICP, Senior Planner; Scott Kolwitz, Planning & Environmental Services Manager; and Simone Seydoux, Assistant City Clerk.

Staff members Alexander Hamilton, Fire Chief; Betsy George, Chief Financial Officer; Brian Yanez, Assistant Public Works; Eden Alomeri, Revenue & Licensing Director & Assistant City Treasurer; Emilio Ramirez, Housing Director; Eric L. Storrie, Special Districts Manager; Helen Miller, Chief Information Officer; Jason Benites, Police Chief; Jeff Miller, Wastewater Infrastructure Manager; Jeff Pengilley, Community Development Assistant Director; Kumar Neppalli, Traffic Operations Engineer; Luis Ortega, Wastewater Management Analyst II; Michael Wolfe, Public Works Director; Shiri Klima, Deputy City Manager; Steve Howlett, Assistant Public Works Director; Tai P. Chau, PE, QSD/P, Supervising Civil Engineer; Tatiana Arnaout, City Engineer; Timothy Beaman, Supervising Civil Engineer; Vyto Adomaitis, Community Development Director; and Denise Shadinger, Assistant Chief of Police participated via videoconference.

Erik Nasarenko, Ventura County District Attorney; Michael Jump, Ventura County Chief Deputy District Attorney; Javier Gomez, Inlakech Cultural Arts Center; Ann Walsh, Shea Properties; Jonathan Cornelius, Fore Properties; Mark Di Cecco, RiverPark Town; Sean Mohn, Gibson Transportation; Tony Locacciatto, Meridian Consultants; Tony Talamante, Talamante Project; Anthony Valdez, Starbucks; Hollee King Winegar, MPA, AICP; and Christian Sprunger, Assistant VP also participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and Housing Authority

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Public comments were received from Ray Blattel (cumulative cost of health benefit contributions from the City).

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6)

Agency designated representatives: Alex Nguyen, City Manager, Steve Naveau, Director of Human Resources; and Jennie Kelly, Assistant City Attorney.

Employee organization: Service Employees International Union CTW, CLC, Local 721 (SEIU Local 721); International Union of Operating Engineers AFL-CIO, Local No. 501 (IUOE Local 501); International Association of Firefighters, AFL-CIO (IAFF), Local No. 1684; Oxnard Public Safety Managers Association (OPSMA); Oxnard Peace Officers Association (OPOA); Oxnard Mid-Managers' Association; (OMMA); and unrepresented employees: City Manager; City Attorney; Assistant City Manager; Chief Financial Officer; City Clerk; Assistant City Treasurer/Director of Revenue and Licensing; Deputy City Manager; Community Development Director; Fire Chief; Housing Director; Human Resources Director; I.T. Director; Cultural and Community Services Director; Police Chief; Public Works Director (Department Directors); Chief Assistant City Attorney; Assistant City Attorney; Deputy City Attorney.

Legislative Body: City Council

The City Attorney read the following closed session statement:

"The City Council will recess after the Public Comment period is closed to a closed session, pursuant to Government Code section 54957.6 to review the status of labor negotiations and to review its available funds and funding priorities for the purpose of providing instructions to the City's negotiators regarding the organizations and the unrepresented positions specified in Item C.1 of the meeting agenda."

At 4:38 p.m., the City Council recessed to a closed session. At 5:02 p.m. the City Council reconvened in open session in the Council Chambers. The City Attorney announced the City Council met with its labor negotiators and provided instructions.

D. APPOINTMENT ITEMS (5:00 PM)

1. SUBJECT: Update by District Attorney Erik Nasarenko on the Family Justice Center in Oxnard.

District Attorney Erik Nasarenko and Chief Deputy District Attorney Michael Jump gave a PowerPoint presentation to the City Council on the Family Justice Center in Oxnard.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence for the people of Ukraine.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating March 31, 2022 as "Cesar E. Chavez Day."

Mayor Zaragoza read the proclamation and presented it to Mr. Javier Gomez, Inlakech Cultural Arts Center. Mr. Gomez accepted the Proclamation on behalf of the community and announced a virtual celebration recognizing Cesar E. Chavez Day.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Tom Barber (Sunset Little League 50th Anniversary), Deirdre Frank (Efforts in Ukraine and the Ukrainian Orthodox Church in Oxnard, Cannabis application in Oxnard Shores, cost of litigation and the Council), Douglas Partello (contract service with Mariposa Landscaping and work done at the Cabrillo neighborhood).

H. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council:

1. Receive and file an update from the Director of Emergency Services ("Director") on the COVID-19 Local Emergency ("Emergency"); and
2. Ratify orders issued by the Director pertaining to the Emergency, potentially including an order addressing freight container shipping congestion and orders rescinding or modifying previously issued orders.

City Manager Nguyen announced an update on COVID-19, rental assistance, microbusiness relief grants, bulky item drop-off days and upcoming sports park idea day.

City Attorney Fischer announced there was no director order action to take tonight and that it would take place at the next Council meeting.

I. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY BUSINESS/COMMITTEE REPORTS

Councilmember Lopez made comments on how happy she was being back in Chambers and highlighted the local business Absolute Plumbing and Routing.

Councilmember Teran featured locally-owned Hair Supplies and Great Cuts and gave an update on volunteering with Councilmember Perello on March 5 at the bulky item collection at the Police Activities League parking lot.

Mayor Pro Tem MacDonald picked Dolce Vita in the Transportation Center as his business. Mayor Pro Tem announced that the LOSSAN Rail Corridor Agency Board he serves on which manages the Amtrak Pacific Surfliner is trying to return to a normal schedule of commuter transportation. Also, the Oxnard Convention & Visitors Bureau Board he serves on is putting together a program for temporary banners and murals for the OTC to encourage visitors.

Councilmember Basua recommends the Vineyard Cafe.

Councilmember Perello discussed neighborhood clean-ups. He highlighted this is a way of addressing illegal dumping. Attended opening of the Little Leagues at East Side Park and at the Durley Park. Durley Park Sunset Little League had seven members of the 1972 World Champion Senior League runner ups attending, with a plaque donated in their honor. Councilmember Perello also attended a low rider car show at Oxnard High School, the beginning of the Cabrillo Neighborhood Council and the Airport Authority. Thanked the Neighborhood Pride and Casa de Vida volunteers for their clean up and featured Henry's Cafe as his business.

Councilmember Madrigal recommended local family business American Drive-In Cleaners. He also announced that he had the pleasure of participating Read Across America through Zoom.

Mayor Zaragoza attended opening day for the youth program at the Northside Little League along with Councilmember Perello, Chief Benites and Assistant Chief Sonstegard. The Mayor also attended the Neighborhood Clean-up Program, the Bulky Item Drop-Off Days at Region two and thanked all the departments involved. The Mayor shared photos from the Sunset Little League 50th Anniversary Celebration at Durley Park and commended Tom Barber and his committee for planning the celebration.

The Mayor called on Chief Benites who spoke on the microgrants they give to community organizations and this year they presented a check for \$4,000 to the Sunset Little League. The Mayor recommended Kabuki at the Collections.

1. City Manager Department

SUBJECT: Appointment of Voting Delegate and Alternate for Southern California Association of Governments General Assembly.

RECOMMENDATION: That the City Council appoint Councilmember Gabriela Basua as the City's voting delegate to attend the 2022 Southern California Association of Governments (SCAG) General Assembly scheduled for May 5 - 6, 2022 in Palm Desert, California and appoint an alternate delegate.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action and appoint Councilmember Vianey Lopez to serve as an alternate. VOTE: Basua, Lopez, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; motion passed 7-0.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L-12 were discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Chuck Carter, Channel Islands Neighborhood Council Volunteer (K.8 Measuring of Water Quality).

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the February 9, 2022 special meeting, the February 15, 2022 regular meeting, and the February 16, 2022 special meeting as presented.

2. City Attorney Department

SUBJECT: Adoption of **Ordinance 3008** Amending Oxnard City Code Section 2-2.5.Regarding the Boundaries and Identifying Number of Each City Council District.

RECOMMENDATION: That the City Council adopt **Ordinance 3008** that amends Oxnard City Code Section 2-2.5 regarding the boundaries and identifying number of each City Council district.

3. Finance Department

SUBJECT: **Resolution 15,546** Declaring the Intent of the City to be Reimbursed for Certain Capital Expenditures from the Proceeds of Indebtedness.

RECOMMENDATION: That the City Council adopt **Resolution 15,546** declaring the intent of the City to be reimbursed for certain capital expenditures from the proceeds of indebtedness. (Finance and Governance Committee approved 3-0.)

4. Public Works Department

SUBJECT: Third Amendment to Agreement A-8243 with Northern Digital, Inc. for Water System SCADA Design Project PW 20-97

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement A-8243 with Northern Digital, Inc. in the amount of \$78,500 for a new not to exceed contract amount of \$344,700 for additional design work required for the Water System Supervisory Control and Data Acquisition Design Project PW 20-97 (Project No. 206509).

(This item did not originate in Committee as this is a capital improvement project specifically listed in the Capital Improvement Program budget, which was previously approved by the City Council.)

5. Fire Department

SUBJECT: Purchase Order Western Extrication Specialist Inc., in the amount of \$316,748.40.

RECOMMENDATION: That City Council authorize the Mayor to sign a Purchase Order with Western Extrication Specialists Inc. for \$316,748.40 to purchase battery-operated extrication equipment.

(Community Services, Public Safety, Housing & Development Committee approved 3-0.)

6. Public Works Department

SUBJECT: **Resolution 15,547** for a Grant from California Water and Wastewater Arrearage Payment Program.

RECOMMENDATION: That the City Council adopt **Resolution 15,547** authorizing the City Manager or designee to:

1. Accept a grant from the California Water and Wastewater Arrearage Payment Program in the amount of \$1,258,764.85 for delinquent water charges related to COVID-19;
2. Apply for a grant from the California Water and Wastewater Arrearage Payment Program in the amount of \$848,092.67 for delinquent wastewater charges related to COVID-19; and
3. Execute grant agreements; the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of grant funds; the Director of Public Works or designee to submit non-financial reports.

(This item did not originate in Committee.)

7. Community Development Department

SUBJECT: Approving the Appeal and overturning the Planning Commission's Denial of Planning and Zoning Permit No. 21-550-01 (Major Modification to U-916 (Special Use Permit) for the proposed Starbucks at 2551 North Vineyard Avenue (APN: 132-0-043-215).

RECOMMENDATION: That the City Council:

1. Find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and
2. Adopt **Resolution 15,548** Approving the Appeal and overturning the Planning

Commission's Denial of Planning and Zoning Permit No. 21-550-01 (Major Modification to U-916 (Special Use Permit)), subject to certain conditions and findings.

(This item did not originate in Committee.)

8. Public Works Department

SUBJECT: Channel Islands Water Quality and Quality Assurance Project Plan (QAPP) Report.

RECOMMENDATION: That the City Council receive and file a report on water quality monitoring efforts in the Channel Islands Harbor.

(Public Works and Transportation Committee approved 3-0.)

9. Public Works Department

SUBJECT: Agreement A-8431 with Executive Facilities Services, Inc. for Custodial Services at Various City Locations.

RECOMMENDATION: That the City Council approve and authorize the:

1. Mayor to execute Agreement A-8431 with Executive Facilities Services, Inc., for a term of one year with the option to extend for two consecutive periods of one year each upon the written agreement of both parties for a maximum possible contract term of three (3) years, and for a total contract not-to-exceed amount over the entire possible contract term of \$735,000 to provide custodial services for the Water Campus, Blending Stations 3, 4 and 5, Wastewater Treatment Plant, Advanced Water Purification Facility (AWPF) and Del Norte Regional Recycling and Transfer Station (Del Norte); and

2. Purchasing Agent to execute amendments to extend the term of Agreement A-8431 up to a total maximum term of three (3) years.

(Public Works and Transportation Committee approved 3-0.)

10. Public Works Department

SUBJECT: Agreement A-8440 with South Coast Industrial Door, Inc. for Roll-Up Door Maintenance and On-Call Repair Services Specification No. PW 22-71.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8440 with South Coast Industrial Door, Inc. in the amount of \$750,000 for a three year term for the Roll-Up Door Maintenance and On-Call Repair Services Specification No. PW 22-71.

(Public Works and Transportation Committee approved 3-0)

11. Public Works Department

SUBJECT: Agreement A-8438 with Garcia's Landscaping Maintenance Inc. for On-Call Landscape Vegetation and Irrigation Systems Repair and Maintenance Services Specification No. PW 22-73.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8438 with Garcia's Landscaping Maintenance Inc. in the amount of \$1,000,000 for a three year term for On-Call Landscape Vegetation and Irrigation Systems Repair and Maintenance Services Specification No. PW 22-73.

(Public Works and Transportation Committee approved 3-0.)

12. Housing Department

SUBJECT: Purchase and Sale Agreement between the City of Oxnard and the Oxnard Housing Authority for the sale, in the amount of \$1, of a single-family home located at 3139 J Street.

RECOMMENDATION:

1. That the City Council adopt **Resolution 15,549** authorizing the City Manager or designee to execute and take all needed actions in consultation with the City Attorney relative to entering into a purchase and sale agreement, a regulatory agreement, and a declaration of restrictive covenants by and between the City of Oxnard and the Oxnard Housing Authority for the sale of residential real property located at 3139 J Street.

2. That the Board of Commissioners of the Oxnard Housing Authority adopt **Housing Resolution 1328** approving and authorizing its Executive Director or designee to execute and take all needed actions in consultation with the Authority's General Counsel relative to entering into a purchase and sale agreement, a regulatory agreement, and a declaration of restrictive covenants by and between the City of Oxnard and the Oxnard Housing Authority for the purchase of residential real properties located at 3139 J Street.

Consent Item L.2

It was moved by Councilmember Lopez, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, Lopez, MacDonald, Perello, Teran, and Zaragoza voted in favor; Madrigal voted against; motion passed 6-1.

Consent Item L.7

It was moved by Councilmember Basua, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Basua, Lopez, MacDonald, Madrigal, Teran, and Zaragoza voted in favor; Perello voted against; motion passed 6-1.

Consent Items L.1, L.3 - L.6, and L.8 - L.11

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

Consent Item L.12

It was moved by Councilmember Basua, seconded by Councilmember Teran, to approve the recommended item as presented. VOTE: Basua, Lopez, MacDonald, Madrigal, Perello, Teran, and Zaragoza and Housing Authority Commissioner Andrade voted in favor; motion passed 8-0. Housing Authority Commissioner Vega was absent.

M. PUBLIC HEARINGS

1. Housing Department

SUBJECT: 5-Year PHA Plan, Annual Agency Plan and Capital Fund Program Five-Year Action Plan for Low Rent Public Housing. (0/10/5)

RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard (OHA):

1. Hold a public hearing to receive comments concerning the third year of the 5-Year PHA Plan,

the 2022 Capital Fund Budget, and the Capital Fund Five-Year Action Plan; and

2. Adopt **Housing Resolution 1329**;

- a. Approving the 2022 Annual Agency Plan, 5-Year PHA Plan for the Housing Authority;
- b. Authorizing and directing the Chairman to execute the Department of Housing and Urban Development Public Housing Agency Certification Compliance Form certifying the Housing Authority's compliance with HUD's policies and procedures;
- c. Authorizing the Housing Director to execute and submit all reports, documents and all other certifications required to comply with policies and procedures of the Department of Housing and Urban Development regarding the Annual Agency Plan and the 5-Year PHA Plan;
- d. Approving the 2022 Capital Fund Budget and Capital Fund Five-Year Action Plan; and
- e. Authorizing the Housing Director to accept and expend the funds as indicated in the 2022 Capital Fund Budget and Capital Fund Five-Year Action Plan.

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

Emilio Ramirez, Housing Director; gave a report and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. There were no public speakers.

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

It was moved by Councilmember Basua, seconded by Councilmember Madrigal, to approve the recommended action. VOTE: Basua, Lopez, MacDonald, Madrigal, Perello, Teran, and Zaragoza and Housing Authority Commissioner Andrade voted in favor; motion passed 8-0. Housing Authority Commissioner Vega was absent.

At 9:58 p.m. City Council voted to continue the meeting past 10:00 p.m., and take action on the remainder of the items on the agenda.

It was moved by Councilmember Perello, seconded by Councilmember Teran, to approve continuing the meeting past 10:00 p.m. VOTE: Basua, Lopez, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; the motion carried 7-0.

2. Community Development Department

SUBJECT: RiverPark Specific Plan Amendment & RiverPark and Fore Property Development Agreement Amendments; Located in The RiverPark Specific Plan area generally located North of the Ventura Freeway (Highway 101), west of East Vineyard Avenue, east of the Santa Clara River, and south of Central Avenue (RiverPark) and 2700 and 2750 North Ventura Road (APN 132-0-100-095 & 132-0-100-085) (Fore Property). (10/20/30)

RECOMMENDATION:

That the City Council:

1. Conduct a public hearing, and

Take the actions identified under one of the three following options:

Option 1 – Applicants' Original Request/Staff's Recommended Action – Allowing

residential development in Districts B, C, and D of the RiverPark Specific Plan totaling a maximum of 1,025 additional units. No Project Labor Agreement would be required by the City for future residential development in these Districts:

- a. Certify an Addendum to FEIR No. 00-03; and
- b. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-630-01 (Specific Plan Amendment No. 7 to The RiverPark Specific Plan) for map and text amendments to The RiverPark Specific Plan , subject to certain findings; and
- c. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-04 (Sixth Amendment to Development Agreement No. A-6128) for The RiverPark Property, subject to certain findings; and
- d. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-03 (Second Amendment to Development Agreement No. A-7113) for the Fore Property, subject to certain findings.

Option 2 – Reduced Specific Plan Amendment Alternative – Allowing residential development in Districts B and C of the RiverPark Specific Plan totaling a maximum of 613 additional units. No Project Labor Agreement would be required by the City for future residential development in these Districts:

- a. Certify an Addendum to FEIR No. 00-03; and
- b. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-630-01 (Specific Plan Amendment No. 7 to The RiverPark Specific Plan) for map and text amendments to The RiverPark Specific Plan, subject to certain findings; and
- c. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-04 (Sixth Amendment to Development Agreement No. A-6128) for The RiverPark Property, subject to certain findings; and
- d. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 20-670-03 (Second Amendment to Development Agreement No. A-7113) for the Fore Property, subject to certain findings.

Option 3 – Planning Commission Recommendation – Allowing residential development in Districts B and C of the RiverPark Specific Plan totaling a maximum of 613 additional units, subject to the Applicants first entering into Project Labor Agreements:

- a. Provide direction to City staff to negotiate new language in both the Fore Property Development Agreement Planning and Zoning Permit No. 20-670-03 (Second Amendment to Development Agreement No. A-7113) and the RiverPark Development Agreement Amendment Planning and Zoning Permit No. 20-670-04 (Sixth Amendment to Development Agreement No. A-6128) that requires the

Applicants to enter into Project Labor Agreements for their respective properties prior to the issuance of building permits within District B and District C, and continue the item to a date uncertain for consideration of the Development Agreement Amendments, Specific Plan Amendment, and certify an environmental document.

The City Clerk announced the affidavit of publication and stated that written communications were received and forwarded to Council.

The City Council members disclosed and reported on the ex parte communications that they received. Each councilmember provided a summary of the ex parte communications received.

Vyto Adomaitis, Community Development Director, made introductory remarks. Scott Kolwitz, Planning & Environmental Services Manager and Joe Pearson II, AICP, Senior Planner; gave a report and answered questions. A presentation was made by Ann Walsh, Shea Properties and Jonathan Cornelius, Fore Properties.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Austin Meyer (parking issue looks resolved); Gene Ramirez (business owners in favor); Michael Schanafelt (Resident and business owner in favor); Alex Perez (local union carpenter in favor of PLA); Manley McNinch (member carpenter union in favor of PLA); Anthony Ventura (carpenter union in favor of PLA); Anthony Mireles (Original partner with Shea in favor of PLA); Daniel Mora (Central Coast Labor Council in favor of PLA); Jonathan Duran (carpenter and union representative and in favor of PLA); Max Ghenis (in favor of more housing); Tai Hartley (oppose all options presented); Barbara Macri-Ortiz (disappointed in affordability of units); Rich Niday (local hire and apprenticeship opportunities); Jeff Bode (Apprenticeship programs thanks to PLAs), Joshua Medrano (PLA covers all workers); Deirdre Frank (this is a zoning issue); Douglas Partello (affordable housing needed, build in the south); Dan Smith (outreach to the youth and military with local employment); Alex Mireles (preserve the PLA); Andrew Fogg (represent Shea Properties, addressing EIR questions); Katherine Lazier (resident wants balance).

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

Councilmember Perello made a motion for a hybrid of Option 1 with the addition of a PLA. Motion was seconded by Councilmember Lopez. Deputy City Attorney Zaragoza clarified the motion as being Option 3 with the inclusion of District D.

Mayor Pro Tem MacDonald amended the motion on the floor to go back to Option 1. Mayor Zaragoza seconded the motion.

Councilmember Basua moved to amend the amended motion on the floor by adding a 35% local hire amendment to Option 1. Motion was seconded by Councilmember Madrigal.

Deputy City Attorney clarified Councilmember Basua's motion for the record that this was a motion to amend the amendment recommending approval of Option 1 with the following language added to the development agreements:

The 6th Amendment to Development Agreement regarding Riverpark would read as follows:

Section 6

Selection of Local Sub-Contractors.

In order to promote and maximize the employment of City of Oxnard and Ventura County residents on the project, Owner, to the extent allowed by law, commits to make a good faith effort to achieve a goal of at least 35% of sub-contractors performing project work be primarily located in Ventura County.

The 2nd Amendment to Development Agreement for the Fore Property would read as follows:

Section 7**Selection of Local Sub-Contractors.**

In order to promote and maximize the employment of City of Oxnard and Ventura County residents on the project, Owner, to the extent allowed by law, commits to make a good faith effort to achieve a goal of at least 35% of sub-contractors performing project work be primarily located in Ventura County.

Vote was taken on motion by Councilmember Basua, seconded by Councilmember Madrigal to amend the amended motion of Mayor Pro Tem MacDonald by adding the above language regarding 35% local hire. VOTE: Basua, Lopez, MacDonald, Madrigal, Perello, Teran, and Zaragoza voted in favor; the motion carried 7-0.

Vote was taken on the now amended motion by Mayor Pro Tem MacDonald, seconded by Mayor Zaragoza which amended the motion on the floor by removing the Project Labor Agreement. VOTE: Basua, Lopez, MacDonald, Madrigal, and Zaragoza voted in favor; Perello and Teran voted against; motion carried 5-2.

Vote was taken on the now twice amended motion by Councilmember Perello, seconded by Councilmember Lopez which now reads as choosing Option 1 with a 35% local hire amendment to the development agreements. VOTE: Basua, Lopez, MacDonald, Madrigal, Perello, and Zaragoza voted in favor; Teran voted against; motion carried 6-1.

With Option 1 passing, **Ordinance 3009, 3010 and 3011** were introduced with a first reading and will be brought back to a subsequent City Council meeting for adoption.

N. ADJOURNMENT

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

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.2

DATE: May 3, 2022

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: First Amendment to Agreement for Environmental Services with Rincon Consultants and Environmental Science Associates.

RECOMMENDATION

That the City Council execute a First Amendment with Rincon Consultants, Inc., and Environmental Science Associates (ESA), to increase Agreements #9062-20-CD and #9077-20-CD by \$200,000 for Rincon Consultants, and \$100,000 for ESA, respectively, for revised not-to-exceed amounts of \$400,000 and \$300,000, respectively.

BACKGROUND

From time to time, the Community Development Department utilizes the services of environmental consultants to assist with analysis and environmental evaluations which are either beyond the capacity of planning staff due to the scope of the project and/or when the project analysis requires special expertise. Given that environmental consulting firms provide services to a variety of public and private clients, multiple contracts are required to ensure that conflict of interests do not occur (see Attachments 1 and 2).

In April 2020, the City issued a Request for Qualifications (RFQ) for environmental consulting services. The City received 14 proposals. In November 2020, the City selected four (4) environmental consulting firms; each contract was for \$200,000 and was within the City Manager's contract signature authority. One firm was determined to be unresponsive and failed to return their contract despite numerous prompts; and therefore, contracts were executed with three (3) environmental consulting firms: Rincon Consultants; ESA; and Dudek. Since this time, the Planning (Current and Long Range Planning) and Housing Divisions and Public Works Department have been utilizing these contracts for environmental analysis associated with development projects, as well as housing related environmental analysis. The Public Works Department recently executed a contract with an environmental consultant and is no longer using the Community Development Department's environmental contract.

ANALYSIS

The robust economy has resulted in an increased number of development applications which has resulted in the need for environmental services support. Additionally, the City has secured planning grants from the State of California, Department of Housing and Community Development. These grants to implement programs and ordinance amendments to facilitate and create incentives for housing development will likely result in the need for additional environmental analysis. Further, additional environmental analysis may be necessary to implement the City's 2021-2029 Housing Element. Rincon was actively involved in assisting staff in preparing the environmental document for the Housing Element and may be needed for additional environmental analysis work on this document.

To date, approximately \$196,000 and \$91,000 of each of the \$200,000 contracts has been earmarked for work performed or completed by Rincon and ESA, respectively. In the coming months, Dudek is expected to perform work associated with their contract, but staff does not recommend amending their contract at this time, as Dudek is not close to meeting

its contract maximum.

For the above reasons, and given that the Rincon contract is close to meeting its contract maximum, staff is recommending a \$200,000 increase to the Rincon contract and a \$100,000 increase to the ESA contract. ESA would be responsible for preparation of environmental documents for private development projects. Staff is proactively seeking to increase the contract totals to ensure that necessary and appropriate consultants have contracts to provide needed environmental services. The Housing Department will also utilize these contracts for assistance in preparing required federal environmental documents, as well as monitoring and reporting documentation.

The scope of work to be performed by these two firms will not change from the original contract and will include: Private development projects (“planning applications”), such as larger development projects that require more extensive California Environmental Quality Act (CEQA) review (Environmental Impact Report or more involved Initial Study / Mitigated Negative Declaration documents or technical studies); Federal related housing analysis and Studies; and Public projects, should the City require these specialized services for its own projects related to 6th cycle Housing Element implementation through HCD grant funding. Additionally, the term of each current contract is three (3) years, and each contract includes billing rates. This amendment does not propose to extend the term or modify the billing rates.

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.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The various funding sources used to pay for this Amendment to the Agreement include developer deposits, grant funds, and funding from other City departments. The Community Development Department is not proposing to utilize any General Fund money for the proposed contract amendments.

The on-call environmental services, allocates funding via a request to encumber funds prior to any work being done for each project. No budget appropriation is being requested. Services are funded by developer deposits or grant funding. There is no impact on the City's General Fund.

COMMITTEE OUTCOME

This is already budgeted for, so this item did not originate in Committee.

Prepared by: Kathleen Mallory, Planning & Sustainability Manager

ATTACHMENTS

1. #9077-20-CD- ESA
2. #9062-20-CD - Rincon Consultants

FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

This First Amendment ("First Amendment") to the Agreement for Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2022, by and between the City of Oxnard, a municipal corporation ("City"), and Environmental Science Associates ("Consultant"). This First Amendment amends the Agreement entered into on January 1, 2021, by City and Consultant.

City and Consultant agree as follows:

1. In Section 6 of the Agreement, the figure "\$200,000" is replaced by the figure "\$300,000".
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

CONSULTANT

John C. Zaragoza, Mayor¹ Date

Terri Avila 02/04/22
Terri Avila (Feb 4, 2022 09:48 MST)

Terri Avila, Practice Leader/
Vice President² Date

Ruta Thomas 02/03/22

Ruta Thomas, Regional
Director/Sr. Vice President Date

ATTEST:

Rose Chaparro, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer 1/24/22
Stephen M. Fischer, City Attorney Date

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

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; or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

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

FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

This First Amendment ("First Amendment") to the Agreement for Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2022, by and between the City of Oxnard, a municipal corporation ("City"), and Rincon Consultants, Inc. ("Consultant"). This First Amendment amends the Agreement entered into on December 1, 2020, by City and Consultant.

City and Consultant agree as follows:

1. In Section 6 of the Agreement, the figure "\$200,000" is replaced by the figure "\$400,000".
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 Agreement on the date that is written as "(1) Agreement Start Date" on the Cover Page.

CITY OF OXNARD

John C. Zaragoza, Mayor¹ Date

CONSULTANT

Jennifer Haddow, Principal/
Vice President² 02/09/2022
Date

John F. Dreher Jr., President/
CEO 02/09/2022
Date

ATTEST:

Rose Chaparro, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney 2/8/22
Date

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

2 The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC; 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.



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.3

DATE: May 3, 2022

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Adoption of Ordinance No. 3015 - Portofino Place: A request for a General Plan Amendment to change the 2030 General Plan land use designation of a 7.61-acre site located along the south side of Fifth Street at the intersection of Portofino Place (south of the Oxnard Airport) (APNs: 185-0-221-025, 185-0-221-265, and 185-0-223-015) from Business Research Park (BRP) to Residential Medium (RM) (PZ 20-620-02); a Zone Change from Business Research Park to Multiple-Family (R-2) (PZ 20-570-02), and a Tentative Subdivision Map (Tract No. 6064) for condominium purposes (PZ 20-300-02) to allow for the construction of 90, two-story condominium dwelling units and associated site improvements.

RECOMMENDATION

That the City Council adopt Ordinance No. 3015 approving Planning and Zoning Permit No. 20-570-02 (Zone Change) to change the zoning of the project site from Business Research Park to Multiple-Family (R-2).

BACKGROUND

Ordinance No. 3015 was introduced to the City Council at its April 19, 2022 meeting. Following a public hearing, the Council introduced the ordinance for first reading by title only, waiving further reading. If adopted by Council on May 3, 2022, the ordinance will take effect in thirty days, on June 2, 2022.

This project was heard by the Planning Commission on November 18, 2021; therefore, this item did not originate in Committee. The Planning Commission took action and adopted Resolution Nos. 2021-40 through 2021-44 recommending that the City Council approve the Project, subject to certain findings and conditions.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The approval of the General Plan Amendment, Zone Change, Tentative Subdivision Map Tract No. 6064, and Affordable Housing Agreement provides the opportunity for future development that will result in increased property tax revenue for the City. The Project will be required to pay impact fees for wastewater, water system, water service and meters, storm drain, traffic (City and County), growth capital, Quimby (park), public art, and General Plan maintenance connection and/or impact fees. When completed, the 90 residential condominium units will generate property taxes to the City.

There is no future financial cost to the City due to the private streets incorporated within the development.

COMMITTEE OUTCOME

This project did not originate in one of the City Council Committees. This is a Public Hearing and was heard by the Planning Commission on November 18, 2021; therefore, this item did not originate in Committee. The Planning Commission took action and adopted Resolution Nos. 2021-40 through 2021-44 recommending that the City Council approve the Project, subject to certain findings and conditions.

Prepared by: Joe Pearson II, Principal Planner

ATTACHMENTS

1. Attachment A - Ordinance No. 3015 - PZ No. 20-570-02 (Zone Change)

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 3015

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING A ZONE CHANGE ORDINANCE PZ 20-570-02 FOR THE SUBJECT PROJECT SITE (APNs: 185-0-221-025, 185-0-221-265, AND 185-0-223-015) FROM BUSINESS RESEARCH PARK (BRP) TO RESIDENTIAL MULTIPLE-FAMILY (R-2). FILED BY THE LAW OFFICE OF K.M. NEISWENDER, P.O. BOX 1225, BLUE JAY, CA 92317, THE APPLICANT.

WHEREAS, the Law Offices of K.M. Neiswender filed entitlement applications with the City of Oxnard on November 7, 2019, General Plan Amendment (PZ 20-620-02), Zone Change (PZ 20-570-02), Special Use Permit (PZ 19-500-04), and a Tentative Subdivision Map (PZ 20-300-02); and

WHEREAS, if the aforementioned entitlement applications are collectively approved by the City of Oxnard, the project would be permitted to develop a 7.61 acre project site with 90, two-story condominium dwelling units each with attached 2-car garages, 214 total visitor parking spaces, common swimming pool and playground area, 3,281 square-foot recreation building, entry gates and perimeter walls, private roads, detention basins, landscaping and associated site improvements at the subject project site (APNs: 185-0-221-025, 185-0-221-265, AND 185-0-223-015) (“Project”); and

WHEREAS, the proposed applicant requests that the City’s Zoning Ordinance Map change the zoning of the subject project site from Business Research Park (BRP) to Residential Multiple-Family (R-2); and

WHEREAS, the Project was initially reviewed by the City Council as a Pre-Application (PZ 18-600-02) on March 19, 2019, where the City Council discussed the ability for the project to incorporate inclusionary housing on the project site instead of requesting to pay the affordable housing in-lieu fee payment; and

WHEREAS, the Project applicant mailed notices to all property owners within the Seaview Estates neighborhood and presented the project at the April 20, 2020 Community Workshop; and

WHEREAS, the Project has been reviewed by the Development Advisory Committee (DAC) and the DAC has prepared conditions of approval that are incorporated within the recommended entitlements; and

WHEREAS, on November 18, 2021, the Planning Commission of the City of Oxnard held a public hearing, reviewed the request, and recommended that the City Council approve the requested Zone Change; and

WHEREAS, on February 10, 2022, the Oxnard Airport Authority reviewed the project and determined the project is an acceptable land use and is consistent with the adopted Ventura County Airport Comprehensive Land Use Plan; and

WHEREAS, on March 4, 2022, the Airport Land Use Commission reviewed the project and determined the project is consistent with the adopted Ventura County Airport Comprehensive Land Use Plan; and

WHEREAS, the City Council has carefully reviewed Planning Commission Resolution No. 2021-42 recommending approval of a Zone Change for the subject project site; and

WHEREAS, the City Council is concurrently considering a General Plan Amendment requests that the General Plan Land Use Map change the land use designation of the subject project site from Business Research Park to Residential Medium (PZ 20-620-02), and a Tentative Subdivision Map (Tract No. 6064) for condominium purposes and to combine three existing lots into two lots (PZ 20-300-02)

WHEREAS, on April 19, 2022, the City Council has held a public hearing and received and reviewed written and oral comments related to the proposed PZ No. 20-570-02; and

WHEREAS, the City Council finds after due study and deliberation that the public interest and general welfare require the adoption of PZ No. 20-570-02 and the Zone Change to Residential Multiple-Family (R-2) as shown on Attachment A hereto; and

WHEREAS, the City Council finds that the Zone Change is consistent with the 2030 General Plan; and

WHEREAS, the pursuit of the Zone Change is a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by providing housing opportunities for the residents of the City of Oxnard; and

WHEREAS, the proposed Zone Change is consistent with the policies and directives in the 2030 General Plan if the associated General Plan Amendment (PZ No. 20-620-02) is approved and the Zoning Ordinance to allow orderly development to those areas that can be served by existing or planned utilities, transportation, and service systems. The proposed Zone Change does not represent a significant change in the 2030 General Plan and Zoning Ordinance nor does it result in significant new environmental impacts that have not been previously evaluated; and

WHEREAS, in accordance with the California Environmental Quality Act, the Planning Commission and City Council considered the proposed Addendum to a previously adopted Mitigated Negative Declaration (Final MND 2004-11) before making

its recommendation, finds on the basis of the whole record before it (including the initial study and adopted MND 2004-11) that with the previously adopted Mitigation Monitoring/Reporting Program is included in MND 2004-11 document and incorporated by reference in this and related resolutions and permits and imposition of mitigation measures as conditions of approval, there is no substantial evidence that the project will have a significant effect on the environment, further finds that the Addendum to the previously adopted MND 2004-11 reflects the independent judgment of the City, and recommends that the City Council adopt the Addendum to the previously adopted MND 2004-11; and

WHEREAS, the Applicant agrees, as a condition of adoption of this ordinance at the Applicant's own expense, to indemnify, defend, and hold harmless City and its agents, officers, and employees from and against any claim, action or proceeding to attack, review, set aside, void, or annul the approval of this resolution or any proceedings, acts, or determination taken, done, or made prior thereto that were part of the approval process.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The City Council finds that the Zone Change is internally consistent with all other provisions of the City of Oxnard 2030 General Plan if the corresponding General Plan Amendment (PZ No. 20-620-02) is adopted.

SECTION 3. The City Council finds that the Zone Change will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

SECTION 4. The City Council finds that the project site associated with the Zone Change is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access, and public services and utilities and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate, to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The City Council determines that the proposed Zone Change from Business Research Park (BRP) to Residential Multiple-Family (R-2) is the best use for the subject project site.

SECTION 6. The City Council determines that the Zone Change is in the best interests and welfare of the City and its residents.

SECTION 7. The City Council finds and determines the project is in compliance with the California Environmental Quality Act because an Addendum to the Mitigated Negative Declaration (Final MND 2004-11) that was prepared for the 2004 Dunkirk

Drive Project was considered by the Planning Commission at the public hearing for the Portofino Place project. The Addendum to the Final MND was prepared pursuant to the requirements of the California Environmental Quality Act (CEQA, Public resources Code §§ 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The City of Oxnard is the Lead Agency. The Addendum is appropriate pursuant to CEQA Guidelines § 15164 since only minor changes and additions to the MND are necessary to address the Project changes and no circumstances exist calling for the preparation of a subsequent negative declaration pursuant to CEQA Guidelines § 15162 and 15163. With implementation of the MND 2004-11 mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. Except as expressly amended herein, the City's Zoning Ordinance Map shall remain in full force and effect and shall apply to the property affected by this Resolution.

SECTION 9. PZ No. 20-570-02 (Zone Change) is approved, as shown on the map attached hereto as Attachment A and incorporated herein by reference.

SECTION 10. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. 3015 was first read on April 19, 2022, and finally adopted on May 3, 2022, to become effective thirty days thereafter.

[Remainder of Page Left Intentionally Blank]

Ordinance No. 3015 – PZ 20-570-02 [Zone Change]
City Council Hearing Date: May 3, 2022
Page 5 of 6

PASSED AND ADOPTED this 3rd day of May, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

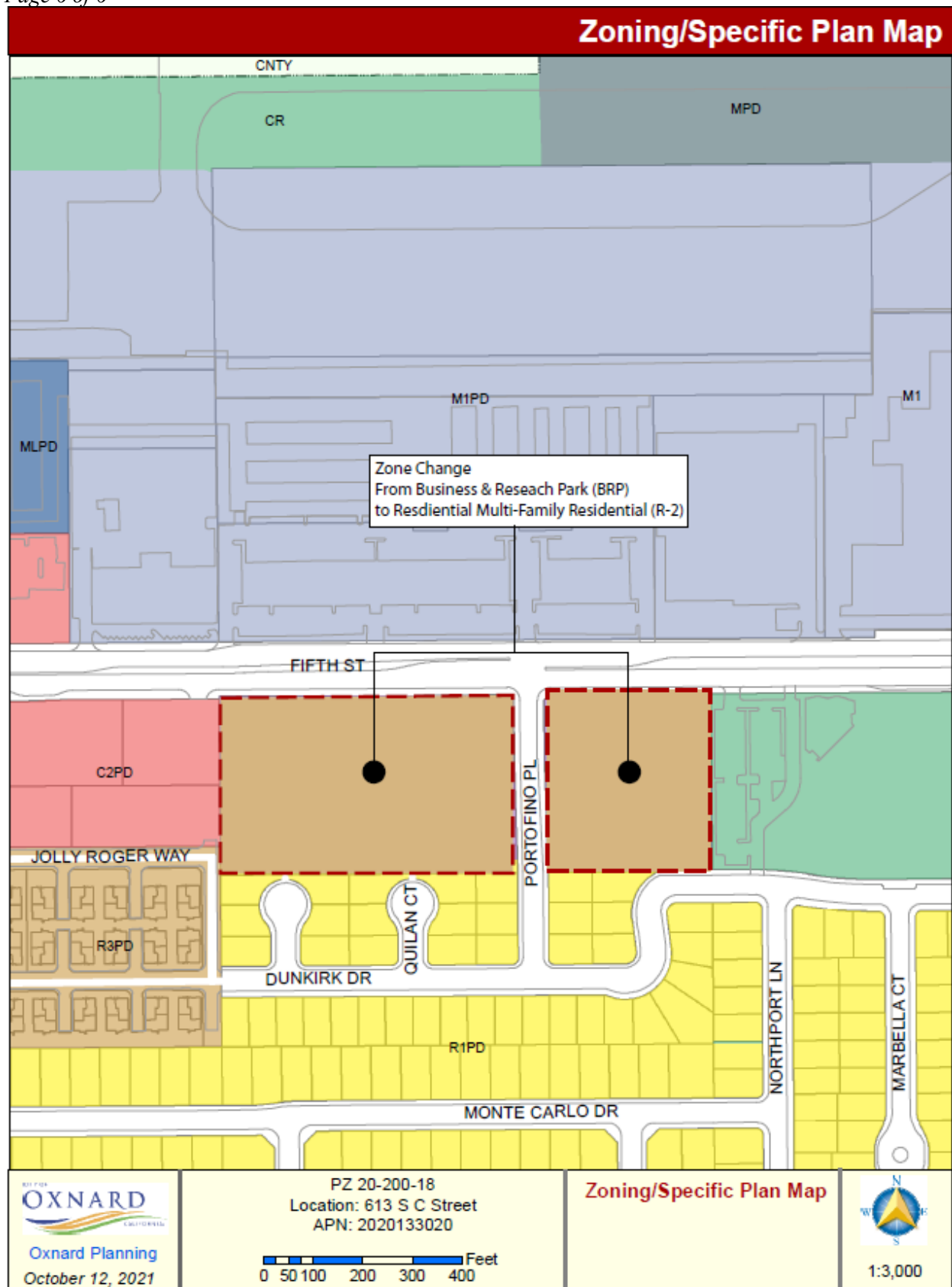
ATTEST:

John C. Zaragoza, Mayor

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney





CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.4

DATE: May 3, 2022

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Agreement A-8444 with Pirate California Holdings, LLC dba Pirate Staffing for Temporary and Supplemental Labor Services at the Del Norte Regional Recycling and Transfer Station.

RECOMMENDATION

That the City Council authorize the Mayor to execute Agreement A-8444 with Pirate California Holdings, LLC dba Pirate Staffing in an amount not to exceed \$800,000 for a three-year term, for temporary and supplemental labor services at the Del Norte Regional Recycling and Transfer Station.

(Public Works and Transportation Committee approved 3-0)

BACKGROUND

The City of Oxnard, Public Works, Environmental Resources Division (ER) is responsible for the City's solid waste, recyclable and organic material collection and for the operation of the Del Norte Regional Recycling and Transfer Station (Del Norte). Del Norte processes over 275,000 tons of solid waste, recyclable and organic material each year from Oxnard and the western region of Ventura County.

ER operations rely on a workforce of over 180 employees in 25 job classifications to successfully perform the tasks required of a full-service solid waste utility. The job classifications of Sorter, Maintenance Worker Trainee, and Office Assistant I/II have a high turnover rate and recruitment for these are often ongoing. During recruitment, these vacancies affect scheduling and the efficiency of the operation and often require overtime to backfill throughout the vacancy. Having the option for temporary labor services through qualified, outside vendors ensures that ER operations are able to maintain cost-effective, uninterrupted service to the public.

Currently, ER contracts with Employment Services LLC, dba Pirate Staffing and LaborMax Staffing through Agreement 8613-19-PW. This agreement was approved by Council on July 7, 2020, and expires on July 15, 2022.

DISCUSSION

On December 16, 2021, the City's Purchasing Department conducted a formal solicitation for temporary labor services for ER through Bid Number PW 22-74. Information regarding the solicitation provided to 27 firms, was posted on the City's website, and at publicpurchase.com. Pirate California Holdings, LLC, dba Pirate Staffing was the only responsive bidder to submit by the January 13, 2022 deadline. Pirate Staffing has been found to meet all City required contractual provisions, including possession of a City business tax certificate, insurance certificates, and corporate filing with the California Secretary of State.

The Pirate Staffing bid response is as follows:

Position	Hourly Bill Rate Payable to Vendor	Overtime Bill Rate Payable to Vendor
Sorter	\$28.58	\$42.87
Maintenance Worker Trainee	\$28.58	\$42.87
Office Assistant I/II	\$23.24	\$34.86

The use of Pirate Staffing allows ER to temporarily fill job vacancies of high turnover rate for the positions of Sorter, Maintenance Worker Trainee, and Office Assistant I/II. The use of temporary staffing reduces the use of costly overtime and provides continuity to operations and customer service.

Based upon the satisfactory performance of Pirate Staffing under current Agreement 8613-19-PW and the results of Bid Number PW 22-74, staff recommends approval of proposed Agreement A-8444 with Pirate Staffing in an amount not to exceed \$800,000 for a three-year term, for temporary and supplemental labor services at Del Norte.

In accordance with the City's Living Wage Policy, this proposed agreement includes the current Living Wage rate as of July 1, 2022, and allows for annual adjustments through the proposed three-year term.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The total cost of this proposed agreement with Pirate Staffing shall not exceed \$800,000 for a three-year term through July 15, 2025. There is no minimum monthly retainer nor minimum hours for services rendered by Pirate Staffing. This does not add to full time staffing levels and will only backfill vacancies in the job classifications of Sorter, Maintenance Worker Trainee, and Office Assistant I/II during recruitment. No temporary or supplemental worker providing services under this Agreement shall work more than 960 hours during one fiscal year period.

The estimated spending plan for FY 2022-23 is \$260,000 and will be requested in the proposed budget from the Environmental Resources Fund (631). Future fiscal year allocations will be requested each year during the annual budget process.

Pirate California Holdings, LLC dba Pirate Staffing Spending Plan					
Fund	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	TOTAL
Environmental Resources - 631-6301-842-8209	\$260,000	\$265,000	\$265,000	\$10,000	\$800,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on April 12, 2022 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Brian Yanez, Assistant Public Works Director, Todd Vasquez-Housley, Environmental Resources Division Manager

ATTACHMENTS

1. Pirate California Holdings dba Pirate Staffing A-8444

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 16, 2022
- (2) Vendor: Pirate California Holdings, LLC dba Pirate Staffing
- (3) Services: Vendor to provide temporary and supplemental labor services for the Del Norte Regional Recycling and Transfer Station ("Del Norte"), including the solid waste and recycling collection program and Materials Recovery Facility ("MRF").
- (4) Schedule of Services: On-Call as Needed, contingent on temporary labor needs at the Del Norte Regional Recycling and Transfer Station
- (5) Agreement Ending Date: July 15, 2025
- (6) Total Agreement Amount: \$800,000
- (7) City's Project Manager: Todd Vasquez-Housley, Environmental Resources Division Manager
- (8) Vendor's Project Manager: Richard Abraham, District Manager
- (9) Insurance Coverage: INS- B
- (10) What wages are required for this Project?

- ☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.
- ☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.
- ☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.
- ☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

Pirate California Holdings dba Pirate Staffing
3475 Saviers Rd.
Oxnard, CA 93033
Attn: Richard Abraham, District Manager

FOR CITY:

City of Oxnard - Environmental Resources
111 South Del Norte Blvd.
Oxnard, CA 93030
Attn: Todd Vasquez-Housley, Division Manager

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

Richard Abraham, richard.abraham@piratestaffing.com

CITY'S PROJECT MANAGER:

Todd Vasquez-Housley, toddvhousley@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☒ Schedule of Services Exhibit | ☒ Insurance Exhibit (INS-B) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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

Vendor receive an amount exceeding that which would have been paid to Vendor for the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnitees regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration: Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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

**PIRATE CALIFORNIA HOLDINGS
DBA PIRATE STAFFING**

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

Catherine L. Abraham
President

Date

Richard Abraham
District Manager

Date

ATTEST:

Rose Chaparro, 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 \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

SCOPE OF SERVICES EXHIBIT

Vendor to provide temporary and supplemental labor services for the Del Norte Regional Recycling and Transfer Station, which includes the solid waste and recycling collection program, and the Materials Recovery Facility (MRF). Vendor must provide temporary and supplemental labor services for the following positions: Sorter, Maintenance Worker Trainee, and office assistant. No temporary or supplemental worker providing services under this Agreement shall work more than nine hundred sixty (960) hours providing such services during the term of this Agreement. Duties and responsibilities for each position are as follows:

SORTER

DESCRIPTION:

Under general supervision, performs the full array of duties assigned, including processing and separating by hand various materials in a safe and efficient manner, from material piles on the Materials Recovery Facility ("MRF") tipping floor, or on a moving conveyor. Maintains a clean and hazard-free work area, demonstrates a full understanding of all applicable policies, procedures and work methods associated with assigned duties. Assists, occasionally, in training newer assigned staff and performs other related duties as assigned. In addition to the abovementioned duties, the MRF Sorter may be required to direct vehicle traffic on the tipping floor, report any equipment malfunctions and follow standard operating procedures (SOPs).

SUPERVISION RECEIVED/EXERCISED:

General supervision is provided by an Environmental Resources Supervisor and the Environmental Resources Superintendent / Manager, or designee.

ESSENTIAL FUNCTIONS:

(including but not limited to the following)

1. Sorts and segregates by hand recoverable materials (e.g., aluminum, plastic, glass, paper, etc.) from incoming waste or green waste material, from material piled on the tipping floor or, on a moving conveyor.
2. Deposits recoverable materials safely and efficiently into appropriate containers; places separated material into appropriate piles or containers.
3. Assists other sorters on an as-needed basis with heavy or bulky items.
4. Assists customers with unloading vehicles in the self-haul area.
5. Follows all City safety policies and procedures, including wearing personal protective equipment (PPE) at all times and stopping the conveyor belt in emergency situations.
6. Inspects incoming loads for unacceptable waste, removes unacceptable items as required and arranges for handling through appropriate processes, or by notifying appropriate staff.
7. Communicates with equipment operators regarding incoming loads of special waste or other loads that require special attention.
8. Maintains a clean workstation and area.
9. Performs minor maintenance on equipment as necessary.
10. Empties and cleans waste or material receptacles.
11. Maintains assigned equipment and work area in a clean and orderly manner.
12. Demonstrates a full understanding of applicable policies, procedures and work methods associated with assigned duties.

QUALIFICATIONS:

(The following are minimal qualifications necessary for entry into the classification)

Education and/or Experience:

The education, experience, knowledge, skills and abilities for an Environmental Resources MRF Sorter

include: equivalence of a high school diploma and six (6) months of experience in MRF sorting or related work.

License/Certificate:

Possession of, or ability to, obtain a class "C" California driver license.

KNOWLEDGE, ABILITIES, AND SKILLS:

(The following are a representative sample of the knowledge, skills, and abilities necessary to perform essential duties of the position)

Knowledge:

Operations and SOPs of a MRF, use and minor maintenance of hand and power tools and equipment, cleaning supplies and equipment, operational characteristics of MRF standard equipment, occupational hazards and standard safety practices, methods and techniques for maintaining a safe and clean working environment.

Skills:

Operate standard MRF sorting equipment including, but not limited to, emergency shut-off equipment, brooms, shovels, mops, vacuum cleaners and other hand tools used in the separation of materials.

Ability:

Plan, organize and conduct work assignments, identify conditions that are unsafe and act upon them, respond courteously to needs of customers and coworkers, analyze and evaluate new and existing methods and SOPs, make adjustments to standard methods and procedures as appropriate, work independently, respond to issues and concerns of the staff, communicate clearly, understand and follow instructions, direct traffic with hand signals and hand-held flash lights, establish and maintain effective working relationships, spot and troubleshoot emerging safety issues in real time and report the same.

WORKING CONDITIONS:

Position requires sitting, standing for long periods of time, walking on level and slippery surfaces, reaching, twisting, turning, kneeling, bending, stooping, squatting, crouching, grasping and making repetitive hand movements in the performance of daily duties. The position requires both near and far vision when reading gauges, inspecting work and operating assigned equipment. Lifting, carrying and pushing tools, equipment and supplies weighing 50 pounds or more are required. The Sorter may work outdoors in all weather conditions including wet, hot, and cold. Sorters use cleaning and lubricating chemicals, which may expose the employee to fumes, dust, and air contaminants. Sorters are exposed directly to municipal solid waste and are expected to work in noisy, dusty environments and may be exposed to pollen. Sorters are required to wear breathing apparatus, dust masks, hearing protection and other safety equipment in the regular course of duties. The Sorter may be exposed to biohazards, insecticide spray, industrial cleaning chemicals, paint, and may be assigned to work in confined spaces. The nature of the work also requires the Sorter to climb ladders, use power and noise producing equipment, and often work with constant distractions and interruptions.

MAINTENANCE WORKER TRAINEE

DESCRIPTION:

Under direct supervision, performs routine and unskilled maintenance, repair, and related duties as required.

DISTINGUISHING CHARACTERISTICS:

Work performed at this level is routine, unskilled, and often repetitive in nature. Work is closely supervised, and changes or deviations are thoroughly explained in detail.

SUPERVISION RECEIVED/EXERCISED:

Direct supervision is provided by the Senior Facilities Maintenance Worker. Maintenance Worker Trainees do not routinely exercise supervision.

ESSENTIAL FUNCTIONS:

(include but are not limited to the following)

1. Performs unskilled, manual labor for Del Norte.
2. Picks up scattered trash, rubbish, and debris.
3. Digs post holes, ditches, and trenches.
4. Repairs fences, walls, and related appurtenances.
5. Cleans storm drains, catch basins, waterways, roadsides, and gutters.
6. Assists in planting, removing, and maintaining a variety of landscaping and shrubbery.
7. Cleans restrooms, fountains, and other publicly accessible areas.
8. Assists in repairing sidewalks, curbs, gutters and walkways.

QUALIFICATIONS:

(The following are minimal qualifications necessary for entry into the Maintenance Worker Trainee position)

Education and/or Experience:

Any combination of education and experience that has provided the knowledge, skills and abilities necessary for a Maintenance Worker Trainee. No experience is required for this level. Experience in the performance of related work is desirable.

License/Certificate:

Possession of a valid unrestricted class C California driver license is required. Depending on assignment, additional certifications and licenses may be required.

KNOWLEDGE, ABILITIES, AND SKILLS:

Knowledge:

Use and proper care for a variety of hand tools; safe and efficient work practices; techniques and materials used in general maintenance and repair; operations and maintenance of a wide variety of construction hand and power tools and equipment; safe work methods and safety regulations pertaining to the work.

Skills:

Operate a variety of small hand tools and equipment used in street maintenance and repair.

Ability:

Perform heavy and routine manual labor; understand and follow instructions; learn to operate tools and simple equipment in a variety of maintenance activities; learn to and operate a variety of vehicular and mechanical equipment in a safe and efficient manner; learn to read and maintain related machinery as needed; learn safety operations and traffic flagging; exercise independent judgment and initiative within established guidelines without close supervision.

WORKING CONDITIONS:

Position requires sitting, standing, walking on level and slippery surfaces, reaching, twisting, turning, kneeling, bending, stooping, squatting, crouching, grasping and making repetitive hand movements in the performance of daily duties. The position also requires both near and far vision when inspecting work and operating assigned equipment. The need to lift, carry and push tools, equipment and supplies weighing 25 pounds or more is also required. Additionally, the Maintenance Worker Trainee works in all weather conditions including wet, hot, and cold. The Maintenance Worker Trainee may use cleaning and lubricating chemicals which may expose the Maintenance Worker Trainee to fumes, dust, and air contaminants. The nature of the work also requires the Maintenance Worker Trainee to climb ladders, use power and noise producing tools and equipment, drive motorized vehicles and heavy equipment as needed, work in heavy vehicle traffic conditions and often work with constant interruptions.

OFFICE ASSISTANT I/II

DESCRIPTION:

Under general supervision of the Departmental management or designee, performs a variety of office support and clerical tasks such as greeting the public, maintaining files, processing forms and distributing documents and reports; performs related duties as assigned.

DISTINGUISHING CHARACTERISTICS:

The Office Assistant I is the entry-level class for this clerical series. Incumbents, in this classification, are expected to learn department and/or office procedures and policies and apply these appropriately to various office situations. This class is distinguished from the next higher level of Office Assistant II by the latter's responsibility for more complex assignments and the ability to work independently with little or no direct supervision. This classification provides general clerical support to the assigned work unit or departmental program.

The Office Assistant II is the journey level classification for the series. Incumbents at the II level perform clerical support functions as assigned with little or no direct supervision.

SUPERVISION RECEIVED/EXERCISED:

General supervision is provided by an Environmental Resources Supervisor and the Environmental Resources Superintendent / Manager, or designee.

ESSENTIAL FUNCTIONS:

(including but not limited to the following)

1. Receives and screens callers, evaluates and responds to inquiries regarding departmental services or official notices; refers callers to appropriate individuals and or offices; provides information to the public and employees; distributes and explains forms or written informational materials; takes messages, requests, and/or maintains appointment calendar, schedules meetings and activities for City staff and/or the public.
2. Assists in the preparation and distribution of agenda packets and agenda packet materials.
3. Assists other sorters on an as-needed basis with heavy or bulky items.
4. Receives and processes fees, fines or other money; prepares receipts and balances money received.
5. Performs general office support activities such as opening and distributing mail, processing outgoing mail and ordering office supplies.
6. Establishes and maintains general file and/or automated record-keeping systems; assigns alpha and/or numeric identification codes; sorts and files information; purges files; posts information to records and files to update information and documents activity transactions; conducts file search to locate misplaced documents, compiles data and/or research information.
7. Prepares a variety of documents such as reports, letters and contracts from handwritten, typed or voice-recorded copy; proofs and corrects copy for grammar, spelling, punctuation and conformance with established

- guidelines; collates and binds copies of documents produced; distributes documents.
8. Assists in processing time sheets, payroll/personnel transactions, claims and purchase orders/requisitions; maintains workload statistics, mileage records, supplies and fixed assets.
 9. Takes and prepares informal meeting notes and minutes; assists in report and budget request preparation; establishes and documents clerical operational and work methods procedures.
 10. Maintains office equipment and facilities; requests and follows up on building maintenance and custodial services; operates and performs routine preventative maintenance on office machines including data/word processors, copiers, field dispatch equipment, etc.
 11. Coordinates with government-funded programs to locate free assistance.
 12. Receives incoming telephone and voice radio calls, secures and records information and uses radio to dispatch necessary City services.
 13. Demonstrates a full understanding of applicable policies, procedures and work methods associated with assigned duties.
 14. Assists in making and confirming travel arrangements; requests travel advances; compiles expense reports.

QUALIFICATIONS:

(The following are minimal qualifications necessary for entry into the classification)

Education and/or Experience:

The education, experience, knowledge, skills and abilities for an Office Assistant I include: the equivalent to a high school diploma.

The education, experience, knowledge, skills and abilities necessary for an Office Assistant II include: the equivalent to a high school diploma and at least six (6) months of office experience in the City of Oxnard.

Some positions may require the ability to speak, read and/or write Spanish and English or other combinations of bilingual skills.

License/Certificate:

Possession of, or ability to, obtain a class "C" California driver license.

KNOWLEDGE, ABILITIES, AND SKILLS:

(The following are a representative sample of the knowledge, skills, and abilities necessary to perform essential duties of the position)

The level and scope of the knowledge and abilities listed below vary according to the I versus II levels distinguished above.

Knowledge:

Standard office and administrative policies and procedures; specified computer applications involving word processing, data entry, database access and/or standard report generation; business arithmetic; standard office practices and procedures, including filing and the operation of standard office equipment, including a computer and applicable software; business letter writing and the standard format for typed materials; methods and techniques for basic report preparation and writing; record keeping principles and practices; correct business English, including spelling, grammar and punctuation; depending on assignment, knowledge of accounting, clerical, construction, legal and computer operation terminology may be required; administrative procedures affecting inventory, purchasing, accounting and personnel/payroll transactions.

Skills:

Operate an office computer Point of Sales (POS) devices, and a variety of word processing, financial transaction and software applications; operate a variety of automated office machinery and equipment including printer, typewriter, calculator, facsimile machine, copier, multi-line telephone systems, etc.; type at a net 30 words per minute.

Ability:

Provide general clerical support to a specialized work unit, read, understand, and review documents for accuracy and relevant information; use applicable office terminology, forms, documents and procedures in the course of the work; use sound judgment in following and applying appropriate laws, regulations, policies and procedures; learn the policies, procedures and guidelines of the department to which assigned in a timely manner; maintain accurate office files; make accurate arithmetic calculations in the receipt of moneys; compose correspondence or documents; meet critical deadlines; deal successfully with the public, in person and over the telephone; courteously respond to community issues, concerns and needs; make adjustments to standard operating procedures as is appropriate and as approved by senior staff; work independently; understand and follow instructions; plan, organize and direct the work of subordinate staff; establish and maintain effective working relationships.

WORKING CONDITIONS:

Position requires prolonged sitting, standing, walking, reaching, twisting, turning, kneeling, bending, squatting, and stooping in the performance of daily activities. The position also requires grasping, repetitive hand movement, and fine coordination in preparing statistical reports and data using a computer keyboard. Additionally, the position requires near vision in reading correspondence, statistical data on the computer, and acute hearing is required when providing phone service and communicating in person. The need to lift, drag, and push files, computer reports or other materials weighing up to 25 pounds also is required.

RATES AND COSTS EXHIBIT

Position	Temporary Employee's Hourly Pay Rate	Hourly Bill Rate Payable to Vendor	% Mark up (Included in Hourly Bill Rate Payable to Vendor)	Temporary Employee's Hourly Overtime Pay Rate	Overtime Hourly Bill Rate Payable to Vendor	% Mark up (Included in Overtime Hourly Bill Rate Payable to Vendor)
Sorter	\$16.89	\$28.58	69.20%	\$25.34	\$42.87	69.20%
Maintenance Worker Trainee	\$16.89	\$28.58	69.20%	\$25.34	\$42.87	69.20%
Office Assistant I/II	\$16.89	\$23.24	37.57%	\$25.34	\$34.86	37.57%

In case of any discrepancy between the cost per unit/services and the extended amount, the cost per unit/service shall prevail; but, if the amount set forth as an cost per unit/service amount is ambiguous, unintelligible, uncertain, omitted or identical to the amount listed in the extended amount, then the amount set forth in the extended amount shall prevail. In case of any discrepancy between the extended amount and the total bid amount, the extended amount shall prevail; but, if the amount set forth as an extended amount is ambiguous, unintelligible, uncertain, omitted or identical to the amount listed in the total bid amount, then the amount set forth in the total bid amount shall prevail. In case of any discrepancy between words and figures in the total bid amount, the words shall prevail.

SCHEDULE OF SERVICES EXHIBIT

Schedule of Services is contingent on temporary labor needs at the Del Norte Regional Recycling and Transfer Station, to be identified by the City's Project Manager, but shall not extend beyond the hours of operation. The facility is closed on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Operating Hours:

Monday through Saturday
5:30 a.m. to 5:00 p.m.

INSURANCE EXHIBIT

Exhibit INS-B

INSURANCE REQUIREMENTS FOR CONSULTANTS (WITHOUT 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.

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-B. 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-B 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.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notes of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
CODE SUB-CODE		COMPANIES AFFORDING INSURANCE COVERAGE			
INSURED		COMPANY LETTER A			SPECIFY COMPANY NAMES IN THIS SPACE
		COMPANY LETTER B			
COVERAGES					
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR [x] OWNERS'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ ----- y one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER				
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS					
CERTIFICATE HOLDER			CANCELLATION		
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL, ENDEAVOR TO MAIL, 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE		

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

SUBMIT IN DUPLICATE

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

PRODUCER
Telephone: _____

POLICY INFORMATION:

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

NAMED INSURED
☐ Deductible ☐ Self-Insured Retention (check which)
 with an Aggregate of \$ _____ of \$ _____ applies
 coverage. ☐ Per Occurrence ☐ Per Claim
 (which)

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE
☐ GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

 Retroactive Date _____ ☐ Claims Made
☐ Occurrence

OTHER PROVISIONS
COVERAGES
☐ GENERAL
☐ PRODUCTS/COMPLETED OPERATIONS
☐ PERSONAL & ADVERTISING INJURY
☐ FIRE DAMAGE

LIABILITY LIMITS IN THOUSANDS \$

EACH OCCURRENCE

AGGREGATE

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: (____) _____

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

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

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

ENDORSEMENT HOLDER
CITY OF OXNARD
Attn: Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007
AUTHORIZED REPRESENTATIVE
☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____

(original signature required)

Telephone: (____) _____

Date Signed _____

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

SUBMIT IN DUPLICATE

ENDORSEMENT NO. _____

ISSUE DATE (MM/DD/YY) _____

PRODUCER

Telephone: _____

NAMED INSURED

POLICY INFORMATION:

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

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

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

CITY AGREEMENTS/PERMITS _____

TYPE OF INSURANCE

- ☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER _____

OTHER PROVISIONS

LIMIT OF LIABILITY

\$ _____ per accident, for bodily injury and property damage.

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

Name: _____

Address: _____

Telephone: () _____

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

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

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

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____

(original signature required)

Telephone: () _____ Date Signed _____

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.5

DATE: May 3, 2022

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Agreements for a Total Value of \$10,700,000 for Supply and Delivery of Chemicals to Wastewater, Water and Recycled Water Facilities.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute the following Agreements for the supply and delivery of chemicals to Water, Wastewater, and Recycled Water Facilities through June 30, 2024 as follows:

1. Agreement A-8445 with HASA, Inc., in the amount not to exceed \$1,000,000 for the supply and delivery of sodium hypochlorite to the Oxnard Wastewater Treatment Plant;
2. Agreement A-8446 with JCI Jones Chemicals, Inc., in the amount not to exceed \$100,000 for the supply and delivery of sodium bisulfite to the Oxnard Wastewater Treatment Plant;
3. Agreement A-8447 with Pencco, Inc., the amount not to exceed \$2,500,000 for the supply and delivery of ferric chloride to the Oxnard Wastewater Treatment Plant and Ferrous Chloride to Oxnard Lift Station 6;
4. Agreement A-8448 with Univar Solutions USA, Inc., in the amount not to exceed \$150,000 for the supply and delivery of sodium hydroxide to the Oxnard Wastewater Treatment Plant Headworks Facility;
5. Agreement A-8449 with HASA, Inc., in the amount not to exceed \$600,000 for the supply and delivery of sodium hypochlorite to the Oxnard Water Campus, Blending Station No. 3, and Advanced Water Purification Facility;
6. Agreement A-8450 with Hill Brothers Chemical Company in the amount not to exceed \$300,000 for the supply and delivery of aqueous ammonia to the Oxnard Water Campus and Blending Station No. 3;
7. Agreement A-8451 with King Lee Chemical Company dba King Lee Technologies in the amount not to exceed \$550,000 for the supply and delivery of Antiscalant Pretreat Plus 0100 to the Oxnard Water Campus and Advanced Water Purification Facility;
8. Agreement A-8452 with Miles Chemical Company, Inc. in the amount not to exceed \$1,250,000 for the supply and delivery of hydrogen peroxide and liquid lime to the Advanced Water Purification Facility;
9. Agreement A-8453 with Pacific Star Chemical dba Northstar Chemical in the amount not to exceed \$1,500,000 for the supply and delivery of sodium hydroxide, and citric acid to the Oxnard Water Campus and Advanced Water Purification Facility;
10. Agreement A-8454 with Univar Solutions USA, Inc. in the amount not to exceed \$2,750,000 for the supply and delivery of sodium bisulfate, and sulfuric acid to the Advanced Water Purification Facility.

(Public Works and Transportation Committee approved 3-0)

BACKGROUND

The Oxnard Wastewater Treatment Plant (OWTP) provides primary, and secondary treatment. Primary treatment consists of settling tanks to remove inorganic materials and heavy solid materials. Secondary treatment consists of biological treatment and settling tanks to remove soluble organics. The OWTP utilizes the following chemicals:

- Sodium hydroxide solution for odor control
- Ferric chloride to enhance primary treatment, and odor control
- Ferrous chloride for odor control along major sewer pipelines
- Sodium hypochlorite for disinfection of treated wastewater
- Sodium bisulfite to dechlorinate disinfected wastewater before discharging into the ocean

The City of Oxnard Water Division utilizes three sources of water to serve its potable water customers: groundwater from the City's wells, groundwater delivered by the United Water Conservation District (UWCD) and imported surface water delivered by Calleguas Municipal Water District (CMWD). The City owns and operates six blending stations where the Water Division blends its three sources of water. The Water Division utilizes the following chemicals:

- Sodium hydroxide solution for pH balance
- Sodium hypochlorite and solutions for disinfection
- Aqueous ammonia for disinfection
- Antiscalant for membrane treatment

The Advanced Water Purification Facility (AWPF) provides recycled water treatment which consists of membrane filtration and reverse osmosis followed by advanced oxidation and disinfection to remove dissolved organics, minerals, and viruses. The AWPF utilizes the following chemicals:

- Sulfuric acid solution for pH control
- Hydrogen peroxide for advanced oxidation disinfection
- Sodium hydroxide, sodium hypochlorite, sodium bisulfite, and citric acid solutions for microfiltration and reverse osmosis membrane cleaning
- Antiscalant for membrane treatment
- Liquid Lime for PH adjustment re-mineralization of the finished water

DISCUSSION

Every 2-3 years, the Public Works Department conducts a formal solicitation for chemical products utilized in the treatment of potable and non-potable water managed by the Department's Water and Wastewater divisions. Due to the current volatility of the economy, the chemical manufacturing industry began seeing unprecedented operating costs that were subsequently passed through to the end user customers. As a result, the City began receiving large price increases on chemicals ranging from 20-150% . As a result of the cost increases the previously held purchase orders did not have sufficient funding; therefore, a new solicitation was generated to obtain the most competitive pricing.

On January 6, 2022, The Purchasing Division, on behalf of the Public Works Department, published request for proposal (RFP) solicitation # PW 22-77 for utility chemicals for the wastewater, water and recycled water treatment. The City closed RFP PW 22-77 on February 3, 2022.

A total of 12 vendors submitted proposals on 17 chemical items. Subsequently, eight vendors were identified as the most qualified and responsive proposers based on a vendor's technical competency and experience, past performance, responsiveness, and cost proposal/ price increase methodology. Each of the selected vendors have been found to meet all City required contractual provisions, including possession of a City business tax certificate, insurance certificates, and corporate filing with the California Secretary of State. In order to accommodate the volatility of the market, vendors included price adjustment frequencies and methodology in their proposals. The price increase methodology included adjustment frequency and price adjustment approach. Vendors included adjusting rates on a quarterly to annual basis, depending on the individual chemical. Vendors also included price adjustments as flat price percentage increases or market increases associated with the Producer Price Index (PPI). As a result of individual chemical market conditions, the City found value in awarding some agreements based on flat percentage increases and others based on PPI increases. Adding this section to the proposal allows for the City to better predict and budget for future increases.

Following this determination, staff reviewed all documentation received from vendors. Based upon the available information and research performed to date, staff believes that the selected vendors are capable of satisfactorily completing the supply and delivery of chemicals. In order to support utility operations, vendors have been awarded agreements based on locations where the chemicals will be delivered, rather than awarding a single agreement for delivery to different locations operated by Water and Wastewater, respectively. By awarding agreements based on location, this will allow operations staff to have more control on monitoring and managing the agreement usage and authorized authority amounts. It also allows separate enterprise funds to manage their budgets more efficiently.

The approval of these Agreements will ensure the water, wastewater, and recycled water treatment facilities do not run out of crucial chemicals, meet regulations, and supply reliable and safe potable and recycled water to our customers.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The cost for these chemical supply and delivery agreements shall not exceed the amounts indicated above for a term not to exceed June 30, 2024. Although the estimated spending plan for Water is \$1.2m for chemicals each fiscal year, contract authority allows for additional capacity, if needed, based on operational impacts. Future fiscal year allocations for these agreements will be requested each year during the budget process from the Water Operating Fund 601 (accounts 601-6001-843-8106 and 601-6012-843-8106) and Wastewater Operating Fund 621 (account 621-6202-843-8106).

Estimated Utility Chemical Spending Plan			
Division	FY 22-23	FY 23-24	TOTAL
Water	\$1,200,000	\$1,200,000	\$2,400,000
Wastewater	\$1,875,000	\$1,875,000	\$3,750,000
TOTAL	\$3,075,000	\$3,075,000	\$6,150,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on April 12, 2022 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Jan Hauser, Wastewater Division Manager, Omar Castro, Water Division Manager

ATTACHMENTS

1. A-8445 Hasa
2. A-8446 JCI
3. A-8447 Pencoco
4. A-8448 Univar
5. A-8449 HASA
6. A-8450 Hill Brothers
7. A-8451 King Lee
8. A-8452 Miles Chemical
9. A-8453 NorthStar Chemical
10. A-8454 Univar

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: HASA, Inc.
- (3) Services: Supply and Delivery of Sodium Hypochlorite 12.5% to the Oxnard Wastewater Treatment Plant
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$1,000,000
- (7) City's Project Manager: Roberto Fuentes
- (8) Vendor's Project Manager: Briana Muñoz
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

HASA, Inc
Attn: Briana Muñoz
23119 Drayton Street
Saugus, CA 91350

FOR CITY:

City of Oxnard
Attn: Roberto Fuentes
6001 Perkins Road
Oxnard, CA 93033

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

brianamunoz@hasapool.com

CITY'S PROJECT MANAGER:

Roberto.Fuentes@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☒ Iran Contracting Act Certification | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnitees regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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.
42. Iran Contracting Act Certification: In accordance with Public Contract Code Section 2200 et seq., the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable. The form of such Iran Contracting Certificate is included with this Agreement and must be signed and dated under penalty of perjury.

[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

HASA, INC

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

 Chris Brink, CEO² _____ Date

 Ken Ward, CFO _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery to the Oxnard Wastewater Treatment Plant in the anticipated amounts as indicated.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**
 - City of Oxnard Wastewater Treatment Plant, 6001 Perkins Road, Oxnard, CA
 - City of Oxnard Wastewater Treatment Plant Headworks Facility, 5741 Perkins Road, Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Wastewater Treatment Plant, located at 6001 Perkins Road, Oxnard, California 93033

Headworks Facility, located at 5741 Perkins Road, Oxnard, California 93033

- a. **Sodium Hypochlorite 12.5%:** Estimated annual quantity is 265,000 gallons. Solution should be approximately 12.5 wt% available NaOCl, suitable for water treatment. Delivery by bulk tank.

RATES AND COSTS EXHIBIT

Ship To	Effective Date	Expiration Date	Hasa ProductCode	Item Description	Package	Quantity	Delivered Price [\$ / gal]
City of Oxnard (List of facilities below)	7/01/2022	9/30/2022	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.275
City of Oxnard (List of facilities below)	10/01/2022	12/31/2022	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.425
City of Oxnard (List of facilities below)	1/01/2023	3/16/2023	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.475
City of Oxnard (List of facilities below)	3/16/2023	6/30/2023	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.515

Delivery locations include:

Wastewater Treatment Plant, located at 6001 Perkins Road, Oxnard, California 93033

Headworks Facility, located at 5741 Perkins Road, Oxnard, California 93033

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excludes Oxnard Sales Tax (9.25%).

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision

(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

INSURANCE EXHIBIT**Exhibit INS-I****INSURANCE REQUIREMENTS FOR VENDORS
(WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)**

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.
 - 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.
2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A**

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER****CITY OF OXNARD****Attn: Insurance Compliance****Reference No. _____****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone: _____

NAMED INSURED

POLICY INFORMATION:

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

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

- ☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made
Retroactive Date _____
☐ Occurrence

OTHER PROVISIONS

COVERAGES

- ☐ GENERAL
☐ PRODUCTS/COMPLETED OPERATIONS
☐ PERSONAL & ADVERTISING INJURY
☐ FIRE DAMAGE
☐ _____
☐ _____

LIABILITY LIMITS IN THOUSANDS \$

EACH
OCCURRENCE

AGGREGATE

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____
(original signature required)

Telephone: () _____ Date Signed _____

SUBMIT IN DUPLICATE			
AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City") PRODUCER _____ Telephone: _____ NAMED INSURED _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits </td> <td style="width: 50%; padding: 5px;"> ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____ </td> </tr> </table> ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____ APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS _____	POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____
POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____		

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

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

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
 - b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER	
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007	AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

43. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: JCI Jones Chemicals, Inc
- (3) Services: Supply and Delivery of Sodium Bisulfate 25% to the Oxnard Wastewater Treatment Plant
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$100,000
- (7) City's Project Manager: Roberto Fuentes
- (8) Vendor's Project Manager: Tim Ross
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

JCI Jones Chemical Inc.
Attn: Tim Ross
1401 Del Amo Blvd
Torrance, CA 90501

FOR CITY:

City of Oxnard
Attn: Roberto Fuentes
6001 Perkins Road
Oxnard, CA 93033

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

tross@jcichem.com

CITY'S PROJECT MANAGER:

Roberto.Fuentes@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☐ Schedule of Services Exhibit | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnitees regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.

37. 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 Vendor 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 Vendor, 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.

38. 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.

39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.

40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.

41. 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

JCI JONES CHEMICALS INC

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

Tim Ross, Branch Manager² _____ Date

Cris Blomgren, Office Manager _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

Provide chemical supply and delivery of Sodium Bisulfate 25% to the Oxnard Wastewater Treatment Plant.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does not match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**

- City of Oxnard Wastewater Treatment Plant, 6001 Perkins Road, Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Wastewater Treatment Plant, located at 6001 Perkins Road, Oxnard, California 93033

- a. **Sodium Bisulfite 25%:** Estimated annual quantity is 20,000 gallons. Solution shall meet a molecular weight of 104.06, density of g/ml (60° F) – 1.17-1.20, pH of 4.5-5.5, and technical grade of solutions that shall be suitable for water treatment. Delivery by bulk tank.

RATES AND COSTS EXHIBIT

Oxnard Wastewater Treatment Plant						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Sodium Bisulfate 25%	20,000	4 x per year	5,000	\$1.24	Quarterly	Negotiated based on market factors

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excludes Oxnard Sales Tax (9.25%).

Unit pricing excludes California Mill Assessment (2.1%)

Quarterly price adjustments must be submitted to the City 30 days prior to prices going into effect.

Updated pricing and price adjustment frequency for year two extension is required by February 1, 2023 for City review and consideration.

INSURANCE EXHIBIT

Exhibit INS-I

INSURANCE REQUIREMENTS FOR VENDORS
(WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

2/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A****SPECIFY COMPANY NAMES IN THIS SPACE**COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

LOSS ADJUSTMENT EXPENSE

(to)

Included in Limits

☐ In Addition to Limits

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

☐ COMMERCIAL GENERAL LIABILITY☐ COMPREHENSIVE GENERAL LIABILITY☐ OWNERS & CONTRACTORS PROTECTIVE☐ Claims Made

Retroactive Date _____

☐ Occurrence

OTHER PROVISIONS

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

COVERAGES

☐ GENERAL☐ PRODUCTS/COMPLETED OPERATIONS☐ PERSONAL & ADVERTISING INJURY☐ FIRE DAMAGE☐ _____☐ _____

LIABILITY LIMITS IN THOUSANDS \$

EACH
OCCURRENCE

AGGREGATE

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent☐ Underwriter

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

Signature _____
(original signature required)

Telephone: () _____

Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City") PRODUCER _____ Telephone: _____ NAMED INSURED _____		SUBMIT IN DUPLICATE			
		POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">ENDORSEMENT NO.</td> <td style="width: 50%; padding: 2px;">ISSUE DATE (MM/DD/YY)</td> </tr> </table>	ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)				
		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____			
		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS _____			
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER _____		OTHER PROVISIONS CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____			
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.					
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:					
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.					
ENDORSEMENT HOLDER					
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____			

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

- A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.
- B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.
- C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.
- D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: Pencco, Inc.
- (3) Services: Supply and deliver of Ferric Chloride 40-46% and Ferrous Chloride 32% at the Oxnard Wastewater Treatment Plant and Lift Station No. 6
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$2,500,000
- (7) City's Project Manager: Roberto Fuentes
- (8) Vendor's Project Manager: Sarah Duffy
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

Pencco, Inc
Attn: Sarah Duffy
P.O. Box 600
San Felipe, TX 77473

FOR CITY:

City of Oxnard
Attn: Roberto Fuentes
6001 Perkins Road
Oxnard, CA 93033

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

sarah@pencco.com

CITY'S PROJECT MANAGER:

Roberto.Fuentes@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☒ Iran Contracting Act Certification | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnites regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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.
42. Iran Contracting Act Certification: In accordance with Public Contract Code Section 2200 et seq., the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable. The form of such Iran Contracting Certificate is included with this Agreement and must be signed and dated under penalty of perjury.

[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

PENCCO, INC.

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

Sarah Duffy, Bid Secretary ² Date

R. L. Horne, President Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

Provide chemical supply and delivery of Ferric Chloride (40-46%) and Ferrous Chloride (32%) to the Oxnard Wastewater Treatment Plant and Lift Station 6.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does not match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**
 - City of Oxnard Wastewater Treatment Plant, 6001 Perkins Road, Oxnard, CA
 - City of Oxnard Wastewater Treatment Plant Headworks Facility, 5741 Perkins Road, Oxnard, CA

- City of Oxnard Lift Station 6, 4781 W. Wooley Road, Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.
Invoices shall be sent to invoices@oxnard.org and pwinvoices@oxnard.org

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Wastewater Treatment Plant, located at 6001 Perkins Road, Oxnard, California 93033

Headworks Facility, located at 5741 Perkins Road, Oxnard, California 93033

Lift Station 6, located at 4781 W. Wooley Road, Oxnard, California 93035

- Ferric Chloride:** Estimated annual quantity is 375,000 gallons. Solutions should be approximately 40-46% by weight suitable for water treatment. Hydrochloric Acid (HCl) content less than 0.5%. Heavy metal contents less than 200 ppm; Cadmium, chromium (total), cobalt, copper, lead, mercury, silver and zinc. Total metals not to exceed 1,000 ppm. Specific gravity 1.423 at 20° F; 1.501 at 4°C (40-46% by weight). Delivery by bulk tank.
- Ferrous Chloride 32%:** Estimated annual quantity 140,000 gallons. Appearance: Clear greenish liquid Odor: Faint hydrochloric acid odor Odor Threshold: pH: <2 Melting Point/Freezing Point: N/A Initial Boiling Point/Range: 104° C (219° F) Flash Point: N/A Evaporation Rate (BuAc=1): N/A Flammability: N/A Lower/Upper Explosive Limit: N/A Vapor Pressure (mmHg): N/A Vapor Density (Air=1): N/A Specific Gravity @ 20o C: 1.18-1.42 Solubility in Water: Soluble Decomposition Temperature: N/A Density at 25o C (77o F): 9.8 -11.8 lbs/gal % Volatiles: N/A Molecular Weight: 126.75 g/mol VOC: N/A

RATES AND COSTS EXHIBIT

Oxnard Wastewater Treatment Plant						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Ferric Chloride, 40%-46%	375,000	6 x per month	5,000	\$2.16	Annual	7%

Oxnard Wastewater Lift Station 6						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Ferrous Chloride 32%	140,000	2 x per month	4,000	\$1.54	Annual	7%

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excludes Oxnard Sales Tax (9.25%).

Maximum price increase during renewal term is set not to exceed 7%.

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision

(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

Executed in the

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

INSURANCE EXHIBIT**Exhibit INS-I****INSURANCE REQUIREMENTS FOR VENDORS
(WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)**

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

2/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A****SPECIFY COMPANY NAMES IN THIS SPACE**COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone: _____

NAMED INSURED

POLICY INFORMATION:

Insurance Company: _____

Policy No.: _____

Policy Period: (from) _____

LOSS ADJUSTMENT EXPENSE ☐ (to)

☐ In Addition to Limits

Included in Limits

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

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

TYPE OF INSURANCE

CITY AGREEMENTS/PERMITS

GENERAL LIABILITY

- ☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made

Retroactive Date _____

☐ Occurrence

OTHER PROVISIONS

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

COVERAGES

- ☐ GENERAL
☐ PRODUCTS/COMPLETED OPERATIONS
☐ PERSONAL & ADVERTISING INJURY
☐ FIRE DAMAGE
☐ _____
☐ _____

LIABILITY LIMITS IN THOUSANDS \$

EACH
OCCURRENCE

AGGREGATE

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent

☐ Underwriter

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

Signature _____

(original signature required)

Telephone: () _____

Date Signed _____

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

43. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: Univar Solutions USA Inc
- (3) Services: Supply and Delivery of Sodium Hydroxide 25% to Oxnard Wastewater Treatment Plant Headworks Facility
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$150,000
- (7) City's Project Manager: Roberto Fuentes
- (8) Vendor's Project Manager: Brent Swanson
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?
☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.
☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.
☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.
☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.
- (11) Addresses for Notice:
- | | |
|--------------------------|-----------------------|
| <i>FOR VENDOR:</i> | <i>FOR CITY:</i> |
| Univar Solutions USA Inc | City of Oxnard |
| Attn: Brent Swanson | Attn: Roberto Fuentes |
| 2600 S. Garfield Avenue | 6001 Perkins Road |
| Commerce, CA 90040 | Oxnard, CA 93033 |
- (12) Contact Emails:
- | | |
|-----------------------------------|--------------------------------|
| <i>VENDOR'S PROJECT MANAGER:</i> | <i>CITY'S PROJECT MANAGER:</i> |
| Brent.Swanson@univarsolutions.com | Roberto.Fuentes@oxnard.org |

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☐ Schedule of Services Exhibit | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnites regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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

UNIVAR SOLUTIONS USA INC

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

Joe Serna, Vice President² Date

Noelle Perkins, Sr. Vice President Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

Provide chemical supply and delivery of Sodium Hydroxide 25% to the Oxnard Wastewater Treatment Plant

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does not match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**
 - City of Oxnard Wastewater Treatment Plant Headworks Facility, 5741 Perkins Road, Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Headworks Facility, located at 5741 Perkins Road, Oxnard, California 93033

- a. **Sodium Hydroxide 25%:** Estimated annual quantity is 25,000 gallons. Sodium hydroxide shall comply with ANSI/AWWA Standard B501-98 or most current standard. Delivery by mini-bulk tank.

RATES AND COSTS EXHIBIT

Oxnard Wastewater Treatment Plant						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Sodium Hydroxide (Caustic Soda) 25%	25,000	2 x per month	4,582	\$1.934	Annual	PPI: Chlorine, Sodium Hydroxide, and other Alkalies

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excluded Oxnard Sales Tax (9.25%).

Annual Price adjustment based on Producer Price Index by Commodity: Chemicals and Allied Products: Chlorine, Sodium Hydroxide, and other Alkalies

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

INSURANCE EXHIBIT

Exhibit INS-I

INSURANCE REQUIREMENTS FOR VENDORS (WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

2/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A**

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

PRODUCER

Telephone:

NAMED INSURED

SUBMIT IN DUPLICATE

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

(to)

LOSS ADJUSTMENT EXPENSE

☐

Included in Limits

☐ In Addition to Limits☐ Deductible☐ Self-Insured Retention (check which) of \$

with an Aggregate of \$ _____ applies to _____

coverage. ☐ Per Occurrence☐ Per Claim

(which)

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

☐ COMMERCIAL GENERAL LIABILITY☐ COMPREHENSIVE GENERAL LIABILITY☐ OWNERS & CONTRACTORS PROTECTIVE☐ Claims Made

Retroactive Date _____

☐ Occurrence**OTHER PROVISIONS**

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

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

AGGREGATE

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

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

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

ENDORSEMENT HOLDER**CITY OF OXNARD****Attn: Insurance Compliance****Reference No.** _____**P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****AUTHORIZED REPRESENTATIVE**☐ Broker/Agent☐ Underwriter☐ _____

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

Signature _____

(original signature required)

Telephone: () _____

Date Signed _____

SUBMIT IN DUPLICATE			
AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City") PRODUCER _____ Telephone: _____ NAMED INSURED _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">ENDORSEMENT NO. _____</td> <td style="width: 50%; padding: 5px;">ISSUE DATE (MM/DD/YY) _____</td> </tr> </table> POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim _____ (which) APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS _____	ENDORSEMENT NO. _____	ISSUE DATE (MM/DD/YY) _____
ENDORSEMENT NO. _____	ISSUE DATE (MM/DD/YY) _____		
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER _____	OTHER PROVISIONS CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____		
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.			
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007	AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____		

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: HASA, Inc.
- (3) Services: Supply and Delivery of Sodium Hypochlorite 12.5% to the Oxnard Water Treatment Campus, Blending Station No. 3, and Advanced Water Purification Facility
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$600,000
- (7) City's Project Manager: Chris Peyton & Mike Love
- (8) Vendor's Project Manager: Briana Muñoz
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

HASA, Inc
Attn: Briana Muñoz
23119 Drayton Street
Saugus, CA 91350

FOR CITY:

City of Oxnard
Attn: Water Division
251 S. Hayes Ave
Oxnard, CA 93030

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

brianamunoz@hasapool.com

CITY'S PROJECT MANAGER:

Chris.Peyton@oxnard.org

Mike.Love@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☐ Schedule of Services Exhibit | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnitees regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.

37. 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 Vendor 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 Vendor, 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.

38. 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.

39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.

40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.

41. 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

HASA, INC

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

 Chris Brink, CEO² _____ Date

 Ken Ward, CFO _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery to the Oxnard Water Campus, Blending Station No. 3, and Advanced Water Purification Facility and the Water Resources Campus in the anticipated amounts as indicated.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - Product does not match the specific gravity.
 - If there is debris in the sample from the delivery truck.
 - Vendor is non compliant with industry standard safety practices and procedures.
 - Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**
 - City of Oxnard Advanced Water Purification Facility, 5700 Perkins Road, Oxnard CA,
 - City of Oxnard Water Campus, 251 South Hayes Avenue, Oxnard, CA
 - City of Oxnard Blending Station No. 3, 1700 Solar Drive Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Water Campus located at 251 South Hayes Avenue

Blending Station No. 3, located at 1700 Solar Drive, Oxnard, California 93030

- a. **Sodium Hypochlorite (Bleach) 12.5%:** Estimated annual quantity is 110,000 gallons. Solution should be approximately 12.5% by weight (NaOCl), suitable for potable water treatment (NSF approved).

Advanced Water Purification Facility, located at 5700 Perkins Road, Oxnard, CA 93033.

- a. **Sodium Hypochlorite 12.5%:** Estimated annual quantity is 60,000 gallons. Solution should be approximately 12.5wt% available NaOCl, suitable for water treatment. Delivery by bulk tank.

RATES AND COSTS EXHIBIT

Ship To	Effective Date	Expiration Date	Hasa ProductCode	Item Description	Package	Quantity	Delivered Price [\$/gal]
City of Oxnard (List of facilities below)	7/01/2022	9/30/2022	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.275
City of Oxnard (List of facilities below)	10/01/2022	12/31/2022	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.425
City of Oxnard (List of facilities below)	1/01/2023	3/16/2023	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.475
City of Oxnard (List of facilities below)	3/16/2023	6/30/2023	07000	Multichlor 12.5% SodiumHypochlorite	Bulk	3,000 Min.	\$ 1.515

Delivery locations include:

Water Campus located at 251 South Hayes Avenue

Blending Station No. 3, located at 1700 Solar Drive, Oxnard, California 93030

Wastewater Treatment Plant, located at 6001 Perkins Road, Oxnard, California

93033Headworks Facility, located at 5741 Perkins Road, Oxnard, California 93033

Lift Station 6, located at 4781 W. Wooley Road, Oxnard, California 93035

Advanced Water Purification Facility, located at 5700 Perkins Road, Oxnard, CA 93033

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excludes Oxnard Sales Tax (9.25%).

INSURANCE EXHIBIT

Exhibit INS-I

INSURANCE REQUIREMENTS FOR VENDORS (WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A**

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER****CITY OF OXNARD****Attn: Insurance Compliance****Reference No. _____****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE							
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)						
PRODUCER Telephone: _____		POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits							
NAMED INSURED		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____							
TYPE OF INSURANCE		APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ In which case only the following specific agreements and permits with the City are covered: _____ CITY AGREEMENTS/PERMITS _____							
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made ☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____ ☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence		OTHER PROVISIONS							
COVERAGES		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">LIABILITY LIMITS IN THOUSANDS \$</th> </tr> <tr> <th style="text-align: center;">EACH OCCURRENCE</th> <th style="text-align: center;">AGGREGATE</th> </tr> <tr> <td style="height: 100px; vertical-align: top;"> ☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____ </td> <td style="height: 100px;"></td> </tr> </table>		LIABILITY LIMITS IN THOUSANDS \$		EACH OCCURRENCE	AGGREGATE	☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____	
LIABILITY LIMITS IN THOUSANDS \$									
EACH OCCURRENCE	AGGREGATE								
☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____									
Underwriter=s representative for claims pursuant to this insurance. CLAIMS: Name: _____ Address: _____ Telephone: () _____									
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:									
1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001. Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.									
ENDORSEMENT HOLDER									
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____							

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER Telephone: _____	POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits		
NAMED INSURED 	☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim _____ (which) _____ APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS		
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER		OTHER PROVISIONS	
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ <i>(original signature required)</i> Telephone: () _____ Date Signed _____	

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: Hill Brothers Chemical Company
- (3) Services: Supply and Delivery of Aqueous Ammonia 19% at Oxnard Water Campus and Blending Station No. 3
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$300,000
- (7) City's Project Manager: Chris Peyton
- (8) Vendor's Project Manager: Luis Cervantes
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

Hill Brothers Chemical Company
Attn: Luis Cervantes
3000 E. Brea St #108
Brea, CA 92821

FOR CITY:

City of Oxnard
Attn: Water Division
251 S Hayes Ave
Oxnard, CA 93030

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

Luis@hillbrothers.com

CITY'S PROJECT MANAGER:

chris.peyton@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☐ Schedule of Services Exhibit | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnites regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.

37. 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 Vendor 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 Vendor, 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.

38. 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.

39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.

40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.

41. 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

HILL BROTHERS CHEMICAL COMPANY

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

Tom James, Chairman of the Board² _____ Date

Patricia Santana, Secretary _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery to the Water Resources Campus in the anticipated amounts as indicated.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**

- City of Oxnard Water Campus, 251 South Hayes Avenue, Oxnard, CA
- City of Oxnard Blending Station No. 3, 1700 Solar Drive Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Water Campus located at 251 South Hayes Avenue

Blending Station No. 3, located at 1700 Solar Drive, Oxnard, California 93030

- a. **Aqueous Ammonia 19%**: Estimated annual quantity is 24,000 gallons. Solution should be approximately 19% (NH₄OH) by weight available, suitable for potable water treatment (NSF approved).

RATES AND COSTS EXHIBIT

Water Campus & Blending Station No. 3						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Aqueous Ammonia 19%	24,000	2 x per month	2,000	\$4.41	Annual	PPI: Synthetic Ammonia, Nitric Acid, Ammonia Compounds, and Urea

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excluded Oxnard Sales Tax (9.25%).

Annual Price adjustment based on Producer Price Index by Commodity: Chemicals and Allied Products: Synthetic Ammonia, Nitric Acid, Ammonia Compounds, and Urea

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

INSURANCE EXHIBIT

Exhibit INS-I

INSURANCE REQUIREMENTS FOR VENDORS (WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.
 - 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.
2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A**

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER****CITY OF OXNARD****Attn: Insurance Compliance****Reference No. _____****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

PRODUCER

Telephone:

NAMED INSURED

SUBMIT IN DUPLICATE

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

(to)

LOSS ADJUSTMENT EXPENSE

☐

Included in Limits

☐ In Addition to Limits☐ Deductible☐ Self-Insured Retention (check which) of \$

with an Aggregate of \$

applies to

coverage. ☐ Per Occurrence☐ Per Claim

(which)

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

☐ COMMERCIAL GENERAL LIABILITY☐ COMPREHENSIVE GENERAL LIABILITY☐ OWNERS & CONTRACTORS PROTECTIVE☐ Claims Made

Retroactive Date _____

☐ Occurrence**OTHER PROVISIONS**

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

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

AGGREGATE

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE☐ Broker/Agent☐ Underwriter☐ _____

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

Signature _____
(original signature required)

Telephone: () _____

Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
PRODUCER		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
Telephone: NAMED INSURED		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
		☐ Deductible ☐ Self-Insured Retention (check which) of \$ with an Aggregate of \$ applies to coverage. ☐ Per Occurrence ☐ Per Claim (which)	
		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:	
		CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE		OTHER PROVISIONS	
☐ COMMERCIAL AUTO POLICY		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: ()	
☐ BUSINESS AUTO POLICY			
☐ OTHER			
LIMIT OF LIABILITY			
\$ per accident, for bodily injury and property damage.			
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.			
2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.			
3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.			
4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.			
5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.			
6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 - OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () Date Signed _____	

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

- A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.
- B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.
- C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.
- D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: King Lee Chemical Company dba King Lee Technologies
- (3) Services: Supply and Delivery of Antiscalant (Pretreat Plus 0100) for Water Treatment Campus and Advanced Water Purification Facility
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$550,000
- (7) City's Project Manager: Chris Peyton & Mike Love
- (8) Vendor's Project Manager: Rick May
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

King Lee Technologies
Attn: Rick May
8949 Kenamar Drive Blvd
San Diego, CA 92121

FOR CITY:

City of Oxnard
Attn: Water Division
251 S Hayes Ave
Oxnard, CA 93030

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

rickmay@kingleetechnology.com

CITY'S PROJECT MANAGER:

chris.peyton@oxnard.org

mike.love@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☐ Schedule of Services Exhibit | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnitees regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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

**KING LEE CHEMICAL COMPANY dba
KING LEE TECHNOLOGIES**

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

Craig Netwig, President² _____ Date

Rick May, Regional Account Manager _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery to the Oxnard Water Resources Campus and Advanced Water Purification Facility in the anticipated amounts as indicated.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**
 - City of Oxnard Advanced Water Purification Facility, 5700 Perkins Road, Oxnard CA,
 - City of Oxnard Water Campus, 251 South Hayes Avenue, Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Water Campus located at 251 South Hayes Avenue, Oxnard, California 93030

- a. **Antiscalant:** Estimated Annual quantity is 7,500 gallons. The antiscalant must be effective and specially formulated for feed water with the highest levels of metal oxides, silica, and scale-forming minerals. The antiscalant must be effective over a wide range of concentrations, and will not flocculate dissolved polymers such as residual coagulants or iron or aluminum-rich silica. The antiscalant must inhibit the polymerizations of reactive silica, and disperse colloidal (non-reactive) silica.

Advanced Water Purification Facility, located at 5700 Perkins Road, Oxnard, CA 93033.

- b. **Antiscalant:** Estimated annual quantity 20,000 gallons. Product must meet ANSI/NSF Standard 60 for production of drinking water with RO. Antiscalant shall control all scale, reactive silica, iron, and aluminum without acidification. Antiscalant shall contain no polymers or other components that may deposit on the membrane surface. Recovery range is 75% to 85%. Delivery by mini-bulk tank.

RATES AND COSTS EXHIBIT

Water Campus & Blending Station No. 3						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Antiscalant (Pretreat Plus -0100)	8,000	1 x per month	667	\$7.74	Annual	PPI by Industry: Other Miscellaneous Chemical Manufatruring: Water Treating Compounds

Advanced Water Purification Facility (AWPF)						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Antiscalant (Pretreat Plus -0100)	20,000	7 x per year	3,000	\$7.74	Annual	PPI by Industry: Other Miscellaneous Chemical Manufatruring: Water Treating Compounds

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excluded Oxnard Sales Tax (9.25%).

Annual Price adjustment based on PPI by Industry: Other Miscellaneous Chemical Manufatruring: Water Treating Compounds

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

INSURANCE EXHIBIT**Exhibit INS-I****INSURANCE REQUIREMENTS FOR VENDORS
(WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)**

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

2/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A**

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER****CITY OF OXNARD****Attn: Insurance Compliance****Reference No. _____****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:
NAMED INSURED

POLICY INFORMATION:

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

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

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

TYPE OF INSURANCE

CITY AGREEMENTS/PERMITS

GENERAL LIABILITY

- | | |
|--|--------------------------------------|
| ☐ COMMERCIAL GENERAL LIABILITY | ☐ Claims Made |
| ☐ COMPREHENSIVE GENERAL LIABILITY | Retroactive Date _____ |
| ☐ OWNERS & CONTRACTORS PROTECTIVE | ☐ Occurrence |

OTHER PROVISIONS

COVERAGES

- ☐ GENERAL
☐ PRODUCTS/COMPLETED OPERATIONS
☐ PERSONAL & ADVERTISING INJURY
☐ FIRE DAMAGE
☐ _____
☐ _____

LIABILITY LIMITS IN THOUSANDS \$

EACH OCCURRENCE	AGGREGATE
--------------------	-----------

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____
Address: _____
Telephone: () _____

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
a. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
b. Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

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

Signature _____
(original signature required)

Telephone: () _____ Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
PRODUCER _____ Telephone: _____ NAMED INSURED _____		ENDORSEMENT NO. _____	ISSUE DATE (MM/DD/YY) _____
POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim _____ (which) _____	
APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:		CITY AGREEMENTS/PERMITS _____	
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER _____		OTHER PROVISIONS	
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____	

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: Miles Chemical Company, Inc.
- (3) Services: Supply and Delivery of Hydrogen Peroxide 35% and Liquid Lime at the Oxnard Advanced Water Purification Facility
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$1,250,000
- (7) City's Project Manager: Mike Love
- (8) Vendor's Project Manager: Kevin Beatty
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

Miles Chemical Company
Attn: Kevin Beatty
12801 Rangoon St
Arleta, CA 91331

FOR CITY:

City of Oxnard
Attn: Mike Love
251 S. Hayes Ave
Oxnard, CA 93030

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

kbeatty@mileschemical.com

CITY'S PROJECT MANAGER:

Mike.Love@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☒ Iran Contracting Act Certification | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnites regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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.
42. Iran Contracting Act Certification: In accordance with Public Contract Code Section 2200 et seq., the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable. The form of such Iran Contracting Certificate is included with this Agreement and must be signed and dated under penalty of perjury.

[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

MILES CHEMICAL COMPANY, INC.

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

 Michael Miles, CEO² _____ Date

 Tony Rossi, CFO _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery to the Oxnard Advanced Water Purification Facility

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does not match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**
 - City of Oxnard Advanced Water Purification Facility, 5700 Perkins Road, Oxnard CA,

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Advanced Water Purification Facility, located at 5700 Perkins Road, Oxnard, CA 93033.

- a. **Hydrogen Peroxide 35%:** Estimated annual quantity is 40,000 gallons. Solution shall be suitable for water treatment. Product shall be NSF approved for drinking water applications and meet NSF/ANSI Standard 60 Drinking Water Additives – Health Effects. Delivery by bulk tank.
- b. **Liquid Lime:** Estimated annual quantity 140,000 gallons. Product must meet ANSI/NSF Standard 60 for production of drinking water with RO.

RATES AND COSTS EXHIBIT

Advanced Water Purification Facility (AWPF)						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Hydrogen Peroxide 35%	40,000	13 x per year	5,000	\$2.59*	Semi-Annual	6%
Hydrogen Peroxide 35%	40,000	13 x per year	3,100	\$2.84**	Semi-Annual	6%
Liquid Lime, Neutralac SLS45	140,000	13 x per year	11,000	\$1.97	Semi-Annual	4%

*Cost based on bulk tanker delivery of 5,000 gallons

**Cost based on mini bulk tanker delivery of 3,100 gallons

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excluded Oxnard Sales Tax (9.25%).

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete one of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision

(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

INSURANCE EXHIBIT

Exhibit INS-I

INSURANCE REQUIREMENTS FOR VENDORS (WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A**

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER **B**
COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS MADE ☒ OCCUR. ☒ OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS
CERTIFICATE HOLDER
CITY OF OXNARD
Attn: Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007
CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

(to)

LOSS ADJUSTMENT EXPENSE ☐

Included in Limits

☐ In Addition to Limits

☐ Deductible

☐ Self-Insured Retention (check which) of \$ _____

with an Aggregate of \$ _____ applies to _____

coverage. ☐ Per Occurrence ☐ Per Claim

(which)

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

☐ COMMERCIAL GENERAL LIABILITY

☐ COMPREHENSIVE GENERAL LIABILITY

☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made

Retroactive Date _____

☐ Occurrence

OTHER PROVISIONS

COVERAGES

☐ GENERAL

☐ PRODUCTS/COMPLETED OPERATIONS

☐ PERSONAL & ADVERTISING INJURY

☐ FIRE DAMAGE

☐ _____

☐ _____

LIABILITY LIMITS IN THOUSANDS \$

EACH
OCCURRENCE

AGGREGATE

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
 - CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
 - SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
 - CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
 - PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
 - SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
- Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent

☐ Underwriter

☐ _____

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

Signature _____

(original signature required)

Telephone: () _____

Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
PRODUCER		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
Telephone: NAMED INSURED		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:	
		CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE		OTHER PROVISIONS	
☐ COMMERCIAL AUTO POLICY			
☐ BUSINESS AUTO POLICY			
☐ OTHER			
LIMIT OF LIABILITY		CLAIMS: Underwriter's representative for claims pursuant to this insurance.	
\$ _____ per accident, for bodily injury and property damage.		Name: _____ Address: _____ Telephone: () _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.			
2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.			
3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.			
4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.			
5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.			
6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).			
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER		AUTHORIZED REPRESENTATIVE	
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 - OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____	

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

43. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: Pacific Star Chemical dba Northstar Chemical
- (3) Services: Supply and Delivery of Sodium Hydroxide 25% and Citric Acid 50% for Water Treatment Campus and Advanced Water Purification Facility
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$1,500,000
- (7) City's Project Manager: Chris Peyton & Mike Love
- (8) Vendor's Project Manager: Julie DeBellis
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

Pacific Star Chemical dba Northstar Chemical
Attn: Julie DeBellis
14200 SW Tualatin-Sherwood Road
Sherwood, OR 97140

FOR CITY:

City of Oxnard
Attn: Water Division
251 S Hayes Ave
Oxnard, CA 93030

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

bidsc@northstarchemical.com

CITY'S PROJECT MANAGER:

chris.peyton@oxnard.org

mike.love@oxnard.org

The Agreement for Trade 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

☒ Living Wage Policy Exhibit

☒ Rates and Costs Exhibit

☐ Prevailing Wages Exhibit

☒ Iran Contracting Act Certification

☒ Insurance Exhibit (INS-I)

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor shall submit a payment request to City within 30 days of delivery listing 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnites regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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.
42. Iran Contracting Act Certification: In accordance with Public Contract Code Section 2200 et seq., the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable. The form of such Iran Contracting Certificate is included with this Agreement and must be signed and dated under penalty of perjury.

[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

PACIFIC STAR CHEMICAL dba NORTHSTAR CHEMICAL

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

 Matt Werger, Vice President² _____ Date

 Suzanne Bell, Controller _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery to the Water Resources Campus and Advanced Water Purification Facility in the anticipated amounts as indicated.

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**

- City of Oxnard Advanced Water Purification Facility, 5700 Perkins Road, Oxnard CA,
- City of Oxnard Water Campus, 251 South Hayes Avenue, Oxnard, CA

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Water Campus located at 251 South Hayes Avenue, Oxnard, CA 93030.

- a. **Sodium Hydroxide (Caustic Soda) 25%:** Estimated annual quantity is 110,000 gallons. Solution should be approximately 25% (NaOH), suitable for potable water treatment (NSF approved).

Advanced Water Purification Facility, located at 5700 Perkins Road, Oxnard, CA 93033.

- b. **Citric Acid 50%:** Estimated annual quantity is 15,000 gallons. The citric acid shall be commercial grade, and shall comply with ANSI/AWWA Standard B301- 99, or its latest revision or addenda. Delivery by bulk tank
- c. **Sodium Hydroxide 25%:** Estimated annual quantity is 3,000 gallons. Solution shall be suitable for water treatment. Sodium hydroxide shall comply with ANSI/AWWA Standard B501-98 or most current standard. Delivery by bulk tank.

RATES AND COSTS EXHIBIT

Water Campus						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Sodium Hydroxide 25%	110,000	2 x per month	4,582	\$1.26	Quarterly	Market*

Advanced Water Purification Facility (AWPF)						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Sodium Hydroxide 25%	3,000	1 x per year	3,000	\$1.45	Quarterly	Market*
Citric Acid 50%	15,000	5 x per year	4,700	\$14.98	Quarterly	Market*

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excludes Oxnard Sales Tax (9.25%).

*Quarterly price adjustments must be submitted to the City 30 days prior to prices going into effect.

Updated pricing and price adjustment frequency for year two extension is required by February 1, 2023 for City review and consideration.

Sodium Hydroxide pricing effective 2/1/2022-9/30/2022, then aquarterly adjustments apply thereafter with 30 day notice to the City each quarter

Citric Acid pricing effective 2/1/2022-9/30/2022, then aquarterly adjustments apply thereafter with 30 day notice to the City each quarter

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision

(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

INSURANCE EXHIBIT**Exhibit INS-I****INSURANCE REQUIREMENTS FOR VENDORS
(WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)**

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A****SPECIFY COMPANY NAMES IN THIS SPACE**COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

PRODUCER

Telephone:

NAMED INSURED

SUBMIT IN DUPLICATE

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

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

LOSS ADJUSTMENT EXPENSE

(to)

Included in Limits

☐ In Addition to Limits

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

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

☐ COMMERCIAL GENERAL LIABILITY☐ COMPREHENSIVE GENERAL LIABILITY☐ OWNERS & CONTRACTORS PROTECTIVE☐ Claims Made

Retroactive Date _____

☐ Occurrence**OTHER PROVISIONS**

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

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

AGGREGATE

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE☐ Broker/Agent☐ Underwriter

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

Signature _____
(original signature required)

Telephone: () _____

Date Signed _____

SUBMIT IN DUPLICATE	
ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City") PRODUCER Telephone: NAMED INSURED	POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER	OTHER PROVISIONS CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: ()
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.	In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows: 1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or a. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). b. Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.
ENDORSEMENT HOLDER CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007	AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ <i>(original signature required)</i> Telephone: () Date Signed _____

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

43. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: July 1, 2022
- (2) Vendor: Univar Solutions USA Inc
- (3) Services: Supply and Delivery of Sodium Bisulfate 38% and Sulfuric Acid 98% to Oxnard Advanced Water Purification Facility
- (4) Schedule of Services: The services must be completed through June 30, 2024, if extended
- (5) Agreement Ending Date: June 30, 2023 subject to renewal for up to one (1) consecutive one (1) year term upon written agreement between both parties for a maximum total contract of two (2) years
- (6) Total Agreement Amount: \$2,750,000
- (7) City's Project Manager: Mike Love
- (8) Vendor's Project Manager: Brent Swanson
- (9) Insurance Coverage: INS-I
- (10) What wages are required for this Project?

☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.

☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.

☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.

☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.

- (11) Addresses for Notice:

FOR VENDOR:

Univar Solutions USA Inc
Attn: Brent Swanson
2600 S. Garfield Avenue
Commerce, CA 90040

FOR CITY:

City of Oxnard
Attn: Mike Love
251 S. Hayes Ave
Oxnard, CA 93030

- (12) Contact Emails:

VENDOR'S PROJECT MANAGER:

Brent.Swanson@univarsolutions.com

CITY'S PROJECT MANAGER:

Mike.Love@oxnard.org

The Agreement for Trade 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 | ☒ Living Wage Policy Exhibit |
| ☒ Rates and Costs Exhibit | ☐ Prevailing Wages Exhibit |
| ☒ Iran Contracting Act Certification | ☒ Insurance Exhibit (INS-I) |

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE 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) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor 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. 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.
3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.
4. Invoices. Vendor 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.
5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.
6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.
7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.
8. Non-Appropriation of Funds. Payments to be made to Vendor 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 or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor'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 Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor 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 Vendor'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 Vendor'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. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor 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 Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor 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. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor 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 Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor 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.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor 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 Vendor, City shall pay Vendor 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 Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

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

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor 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 Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the 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 Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. 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. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor 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 17.

b. Vendor 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 Vendor 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 Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

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

d. Vendor 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. Vendor 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. Vendor 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, Vendor, 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 17 shall survive the termination of this Agreement.

18. 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 Vendor or is developed by Vendor 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 Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (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 Vendor 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, Vendor 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. Vendor 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 Vendor. 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 Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor 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 Vendor or any of its employees, except as stated in this Agreement. Vendor 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 Vendor, 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 Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor 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. Vendor and its employees are not employees of City. Vendor 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. Vendor 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. Vendor agrees to pay all required taxes on amounts paid to Vendor 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. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor'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 Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a “public work.” The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations (“DIR”) regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR’s determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor 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. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor’s compliance with this Section.

22. Vendor’s Representations. Vendor represents, covenants and guarantees that: a) Vendor 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 Vendor’s full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor 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, Vendor 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 Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor 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 Vendor "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 Vendor has been retained pursuant to this Agreement.

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

26. Non-Assignability. Vendor 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 Vendor shall hold harmless, defend and indemnify Indemnites regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor's work from damage and shall protect the City's property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

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

29. 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.

30. 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.

31. Force Majeure. Neither City nor Vendor 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.

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

33. 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.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor 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.

36. 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.
37. 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 Vendor 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 Vendor, 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.
38. 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.
39. 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) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.
40. 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 either of City or Vendor's Project Managers' emails listed in "(12) 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.
41. 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.
42. Iran Contracting Act Certification: In accordance with Public Contract Code Section 2200 et seq., the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable. The form of such Iran Contracting Certificate is included with this Agreement and must be signed and dated under penalty of perjury.

[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

UNIVAR SOLUTIONS USA INC

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

 Joe Serna, Vice President² _____ Date

 Noelle Perkins, Sr. Vice President _____ Date

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

² The City requires the following for any contract:

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

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

SCOPE OF SERVICES EXHIBIT

The specifications provide for chemical supply and delivery of Sodium Bisulfate 38% and Sulfuric Acid 98% to Oxnard Advanced Water Purification Facility

SUPPLIER SPECIFICATIONS & GENERAL REQUIREMENTS

1. Delivery

- a. **Timing:** Product shall be delivered within 48 hours of agency request. All deliveries shall be made Monday through Friday between 8:00 a.m. and 4:00 p.m.
- b. **Delivery vehicles:** Shall be in good condition and operated by Supplier. Truck tractors and tank trailers shall be pneumatic-tired; conform to all applicable State and Federal regulations; and be fully equipped and maintained to safely transport and deliver specified chemical product. Tank trailers shall be specially designed to prevent leakage and resist rupture in the event of a collision, and carry all equipment necessary to respond to an accidental chemical release.
- c. **Delivery Driver:** Shall be trained and experienced in handling specified chemical product, and be specifically trained to stop chemical flow in the event of an emergency. Supplier shall provide evidence of such training and experience upon request.
- d. **Posted Speed Limits:** Shall be observed at all times while driving on agency property. Supplier shall be completely liable for any damage to property or personnel.
- e. **Delivery Equipment:** Shall include an appropriate compression unit and piping to permit safe transfer of the specified chemical product to stationary bulk containers. Hoses, fittings and appurtenant equipment shall be provided by Supplier and be free of leaks.
- f. **Unloading:** Unloading shall be done in accordance with the following:
 - i. Shall be done in a safe manner by Supplier in the presence of a plant operator.
 - ii. Appropriate personal protective equipment (PPE) clothing shall be worn, and industry safety practices and procedures followed explicitly at all times.
 - iii. Driver may be required to capture a sample of the product from the delivery tank in order for a plant operator to do a visual inspection.
 - iv. Supplier to be able to provide proof of tank and hose inspections prior to delivery demonstrate that all components are in proper working order.
- g. **Refusal of delivery:** City will refuse delivery of product at no penalty to the City if:
 - i. Product does not match the specific gravity.
 - ii. If there is debris in the sample from the delivery truck.
 - iii. Vendor is non compliant with industry standard safety practices and procedures.
 - iv. Failure of Supplier to wear proper PPE while making chemical transfers. Supplier is to provide their staff with all required PPE.
- h. **Pay Quantity of Bulk Product Delivered:** Shall be determined by weighing the tank trailer before and after filling at Supplier's plant on a certified truck scale. Copies of weigh master's certificates shall be provided with delivery.
- i. **Other:** Agency may require Supplier to furnish an affidavit stating product complies fully with this specification, a certified analysis of the product delivered, and/or the preventative maintenance schedule of delivery truck's unloading compressor.
- j. **Deliver to the following locations as required:**

- City of Oxnard Advanced Water Purification Facility, 5700 Perkins Road, Oxnard CA,

2. Quantity

Exact quantities may vary from the estimates given, and may be increased or decreased to meet agency's requirements. No minimum is guaranteed.

3. Invoicing

A separate invoice shall be provided for each delivery during contract period.

4. Specification

Supplier shall bring apparent error or omissions to City's attention

5. Chemical Specification for the following locations:

Advanced Water Purification Facility, located at 5700 Perkins Road, Oxnard, CA 93033.

- a. **Sodium Bisulfite 38%:** Estimated annual quantity is 25,000 gallons. Solution shall meet a molecular weight of 104.06, density of g/ml (60° F) - 1.17-1.20, pH of 4.5-5.5, and technical grade solution that shall be suitable for water treatment. Delivery by bulk tank.

RATES AND COSTS EXHIBIT

Advanced Water Purification Facility (AWPF)						
Chemical	Approximate Annual Quantity (gallons)	Average # of Deliveries	Average Delivery Load (gallons)	Unit Price Per gallon	Price Adjustment Frequency period	Max Price adjustment per period
Sodium Bisulfate 38%	25,000	8 x per year	3,125	\$1.795	Annual	PPI: Chlorine, Sodium Hydroxide, and other Alkalies
Sulfuric Acid 98%	124,000	40 x per year	3,100	\$7.95	Annual	PPI: Chlorine, Sodium Hydroxide, and other Alkalies

All costs include but not limited to, freight, delivery, quality assurance costs, etc, in unit price.

Unit pricing excluded Oxnard Sales Tax (9.25%).

Annual Price adjustment based on Producer Price Index by Commodity: Chemicals and Allied Products: Chlorine, Sodium Hydroxide, and other Alkalies

Updated pricing for year two extension is required by February 1, 2023 for City review and consideration

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision

(b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

INSURANCE EXHIBIT

Exhibit INS-I

INSURANCE REQUIREMENTS FOR VENDORS
(WHO DELIVER, INSTALL OR MAINTAIN PRODUCTS)

1. Vendor 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 sale and delivery, installation or maintenance of products by vendor, its agents, representatives, or employees.

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.

2. Vendor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-I. 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. Vendor 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. Vendor 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 vendor; products and completed operations of vendor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. 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-I 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 vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

2/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-I.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER **A****SPECIFY COMPANY NAMES IN THIS SPACE**COMPANY
LETTER **B****COVERAGES**

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER****CITY OF OXNARD****Attn: Insurance Compliance****Reference No. _____****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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

SUBMIT IN DUPLICATE

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

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

LOSS ADJUSTMENT EXPENSE ☐

☐ In Addition to Limits

(to)

Included in Limits

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

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

TYPE OF INSURANCE

CITY AGREEMENTS/PERMITS

GENERAL LIABILITY

- ☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made

Retroactive Date _____

☐ Occurrence

OTHER PROVISIONS

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____

Address: _____

Telephone: () _____

COVERAGES

- ☐ GENERAL
☐ PRODUCTS/COMPLETED OPERATIONS
☐ PERSONAL & ADVERTISING INJURY
☐ FIRE DAMAGE
☐ _____
☐ _____

LIABILITY LIMITS IN THOUSANDS \$

EACH
OCCURRENCE

AGGREGATE

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

- INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.
 Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent

☐ Underwriter

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

Signature _____

(original signature required)

Telephone: () _____

Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City") PRODUCER _____ Telephone: _____ NAMED INSURED _____		SUBMIT IN DUPLICATE			
		POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">ENDORSEMENT NO.</td> <td style="width: 50%; padding: 2px;">ISSUE DATE (MM/DD/YY)</td> </tr> </table>	ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)				
		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____			
		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:			
		CITY AGREEMENTS/PERMITS _____			
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER		OTHER PROVISIONS CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____			
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.					
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:					
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.					
ENDORSEMENT HOLDER CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____			

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

- A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.
- B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.
- C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.
- D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2021**

1. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.89 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2022, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.
 - a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.
 - b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.
 - c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.
 - d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

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



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.6

DATE: May 3, 2022

TO: City Council

FROM: Stephen Fischer, City Attorney, (805) 385-7483, stephen.fischer@oxnard.org
Emilio Ramirez, Housing Director, (805) 385-8094, emilio.ramirez@oxnard.org

SUBJECT: Adoption of a Just Cause Eviction And Tenant Protection Ordinance and a Rent Stabilization Ordinance.

RECOMMENDATION

That the City Council:

1. Adopt Ordinance No. 3012 adding Article I to Chapter 27 of the Oxnard City Code that is entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE I TO CHAPTER 27 OF THE OXNARD CITY CODE ESTABLISHING JUST CAUSE EVICTIONS AND OTHER TENANT PROTECTIONS”

2. Adopt Ordinance No. 3013 adding Article II to Chapter 27 of the Oxnard City Code that is entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE II TO CHAPTER 27 OF THE OXNARD CITY CODE ESTABLISHING RENT STABILIZATION REGULATIONS INCLUDING PROHIBITING RESIDENTIAL REAL PROPERTY RENTAL RATE INCREASES THAT EXCEED FOUR PERCENT (4%) ANNUALLY”

BACKGROUND

Over the past two years, the Community Services, Public Safety, and Housing & Development Committee and the City Council have heard multiple discussions regarding rent stabilization and tenant protection issues. On February 9, 2022, the Oxnard City Council considered two draft ordinances regarding rent stabilization and just cause evictions and tenant protections. City Council directed staff to finalize both ordinances and present them for City Council introduction and adoption. Specifically, at the February 9, 2022 meeting, Council directed that the following items be included in the ordinances:

1. Tenant relocation assistance for no-fault just cause evictions equal to (i) two months of the tenant’s rent that was in effect when the owner issued the notice to terminate the tenancy, or (ii) \$5,000, whichever is greater.
2. Annual rent adjustment of not more than five percent;
3. Both ordinances to expire on December 31, 2030.
4. Fair Return Petition for Rent Increase shall be determined by the City Manager, not a board.

Following the February 9, 2022 hearing, City staff renumbered the code sections within the ordinances and made minor updates to the ordinances for better clarity. Staff shared the updated ordinances with stakeholders for feedback. Staff then incorporated some of the stakeholders' feedback into the ordinance introduced to the Council on April 13, 2022.

On April 13, 2022, the City Council approved the introduction for first reading by title only (and waiving further reading)

of the ordinances subject to the following:

1. Decreasing the annual rent adjustment from not more than five percent to not more than four percent;
2. Modifying Section 27-9 to require Owners to post notice of the existence of Chapter 27 in the following languages: English, Purepecha, Mixteco, Otomi, Tagalog, Zapoteco, Nahuatl, and Spanish.
3. Modifying Section 27-10 to read, in part, as follows: "It is illegal for an Owner or representative to retaliate against a tenant for lawfully and peaceably exercising their legal rights, including but not limited to, the right to file a complaint with Code Compliance..."

The Council adopted the ordinances by a 6-1 vote.

STRATEGIC PRIORITIES

This agenda item supports the Quality-of-Life strategy. The purpose of the Quality-of-Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promote safe neighborhoods, encourage community engagement, and support our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

If the ordinances are adopted, staff estimates an annual cost of approximately \$1,200,000 required for a fully burdened staff and office operations to administer the Program, inclusive of education programs. Staff will return to City Council to establish a Program Fee(s), which will off-set the annual cost to administer the Program. In the Fiscal Year 22-23 Budget, approximately \$300,000 will be requested for a staff person and contracting for marketing, education and public outreach.

COMMITTEE OUTCOME

Per the direction of the City Council on February 9, 2022 and October 19, 2021, this item is being presented directly to the City Council. The Committee previously heard public comment at their September 14, 2021 meeting.

Prepared by: Jason Zaragoza, Deputy City Attorney, Kenneth Rozell, Chief Assistant City Attorney, Emilio Ramirez, Housing Director, Ashley Golden, Assistant City Manager

ATTACHMENTS

1. Just Cause Eviction_Tenant Protection Ordinance_ FINAL
2. Rent Stabilization Ordinance_ FINAL

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OXNARD ADDING ARTICLE I TO CHAPTER 27 OF
THE OXNARD CITY CODE ESTABLISHING JUST CAUSE
EVICTIONS AND OTHER TENANT PROTECTIONS

THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS
FOLLOWS:

Section 1. The City Council of Oxnard hereby finds, determines, and declares
as follows:

- A. At the City Council meetings on October 19, 2021, February 9, 2022, and April 13, 2022, the City Council discussed the City of Oxnard's ("Oxnard" or "City") ability to address just cause evictions and other tenant protections.
- B. Housing instability threatens the public peace, health, and safety as eviction from one's home can lead to prolonged homelessness; increased residential mobility; loss of community; strain on household finances due to the necessity of paying rental application fees and security deposits; stress and anxiety experienced by those displaced; increased commute times and traffic impacts if displaced workers cannot find affordable housing within the city in which they work; and interruption of the education of children in the home.
- C. Eviction creates particular hardships for individuals and households of limited means, given the shortage of affordable housing within Oxnard and the region generally.
- D. The California State Legislature adopted the Tenant Protection Act of 2019 ("AB 1482"), codified in part in California Civil Code section 1946.2 ("section 1946.2"), which became effective by its own terms on January 1, 2020, and, with certain exceptions, prohibits an owner of residential property from terminating a tenancy without just cause.
- E. Under AB 1482, landlords are required to give tenants a reason for their eviction. Just causes such as nonpayment of rent, nuisance to other tenants, damage to property, and illegal activity continue to be legal with zero relocation assistance. However, tenants served "no fault" evictions (owner move-in, substantial remodel, demolishing the rental unit, etc.) receive only one month of relocation assistance from their landlords. Most landlords require first months' rent, last months' rent, security deposit, and application fees upon move-in. Many tenants also pay for temporary storage and other moving costs. These move-in related expenses can easily surpass available savings, without which the tenant may be forced into homelessness or displacement. One month of relocation assistance may not adequately cover these expenses, so relocation assistance must be

strengthened to reflect the realities of the rental market. A minimum of \$5,000 in relocation assistance is the minimum needed to adequately cover most relocation and move-in costs when the relocation is at no-fault of the tenant.

- F. The housing rent burden and poverty faced by many residents in Oxnard threatens the health, safety, and welfare of its residents, particularly when resulting in eviction and displacement. Studies have shown that evictions play an impactful role in the lives of low income renter households and can also contribute to poverty through disruptive effects such as job loss, adverse health effects, and negative consequences for children.
- G. Moreover, an eviction can remain on a renter's credit history for at least seven years, impacting one's ability to rent and find employment opportunities.
- H. AB 1482 provides that a local ordinance adopted after September 1, 2019, requiring just cause for termination of a residential tenancy shall supersede California Civil Code section 1946.2 only if the ordinance is "more protective" than section 1946.2.
- I. In accordance with California Civil Code section 1946.2(g)(1)(B), the City Council finds that the provisions of this Ordinance regulating just cause terminations or tenancies are more protective than California Civil Code section 1946.2 for the following reasons:
 - 1. The just cause for termination of a residential tenancy under this Ordinance is consistent with California Civil Code section 1946.2.
 - 2. This Ordinance provides additional tenant protections that are not prohibited by any other provisions of applicable law in that the ordinance triggers tenant protections after 30 days of tenancy, applies to tenants that are not covered by AB 1482, and requires a minimum of \$5,000 in relocation assistance.
- J. The City Council finds and determines that regulating the relations between residential landlords and tenants will increase certainty and fairness within the residential rental market in the City and thereby serve the public peace, health, and safety.
- K. Pursuant to the City's police power, as granted broadly under Article XI, section 7 of the California Constitution, the Oxnard City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and welfare of the City and its residents.
- L. The City Council hereby adopts these regulations in order to address the threats set forth below.

1. Housing, particularly affordable housing, is difficult to procure in this region, including in Oxnard. Evictions without just cause destabilize the housing market and can result in the loss of affordable housing;
 2. For the preservation of the public peace, health, and safety, the City Council finds that it is necessary to adopt an ordinance regulating just cause evictions, for all of the reasons set forth in the recitals above, which are hereby incorporated by reference;
 3. Without the imposition of this Ordinance, evictions without just cause may result in the displacement of residential tenants who would be forced to find new housing in an ever-more expensive housing market, and would significantly increase the risk of residential tenants becoming homeless; and
 4. There is a threat to the public peace, health, and safety of the City and its community, thereby necessitating the enactment of this Ordinance in order to ensure that tenants are not turned out of their homes without just cause.
- M. The direction for this ordinance dated October 19, 2021, February 9, 2022, and April 13, 2022, shall be incorporated herein by this reference, and together with this ordinance, any amendments or supplements, and oral testimony, shall constitute the necessary findings for this ordinance.

Section 2. The recitals and statements of fact set forth in the preamble to this ordinance are true and correct, constitute a substantive part of this ordinance, and are incorporated herein by this reference.

Section 3. A new Chapter 27 “Tenant Protection and Rent Stabilization Ordinance” is added to the City Code.

Section 4. A new Article 1 “Evictions and Tenant Protection” is added to Chapter 27 of the City Code to read as follows:

“Article I – JUST CAUSE EVICTIONS AND TENANT PROTECTION

SEC. 27-1. CITATION.

This Article shall be known as the “Just Cause Eviction and Tenant Protection Ordinance.”

SEC. 27-2. RESTRICTIONS ON TERMINATION OF TENANCY WITHOUT JUST CAUSE.

Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for thirty (30) days, the Owner of the residential real property

shall not terminate the Tenancy without just cause, which shall be stated in the written notice to terminate Tenancy.

For purposes of this Article, “just cause” includes either at-fault just cause or no-fault just cause.

SEC. 27-3. AT-FAULT JUST CAUSE

At-Fault Just Cause includes any of the following:

- (A) Default in the payment of rent.
- (B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the California Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

A “breach of a material term” shall not include:

- (1) The obligation to limit occupancy, provided that the additional occupant who joins the tenant of the residential real property thereby exceeding the limits on occupancy set forth in the lease is dependent under age 18, or a replacement tenant who moved in after an approved tenant vacated the residential real property, so long as the addition does not exceed the Uniform Housing Code.

The Owner shall have the right to approve or deny the prospective additional or replacement tenant, who is not a minor dependent child, provided that the Owner does not unreasonably withhold approval. If the Owner fails to respond to the tenant in writing with a description of the reasons for the denial of the request within a reasonable amount of time of receipt of the tenant’s written request, the tenant’s request shall be deemed approved by the Owner if the lease is for a period of one (1) year or less.

- (2) A change in the terms of the Tenancy that is not the result of an express written agreement signed by both of the parties. An Owner is not required to obtain a tenant’s written consent to a change in the terms of the Tenancy if the change in the terms of the Tenancy is authorized by this section, or if the Owner is required to change the terms of the Tenancy pursuant to federal, State, or local law. Nothing in this subsection shall exempt an Owner from providing legally required notice of a change in the terms of the Tenancy.

- (C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
- (D) Committing waste as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
- (E) The tenant had a written lease that terminated on or after the effective date of this Ordinance, and after a written request or demand from the Owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law. If the tenant had a written lease that terminated on or after the effective date of this Ordinance, and after a written request or demand from the Owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of non-similar duration and/or with non-similar lease provisions, then the cause for eviction will be No-Fault Just Cause under City Code section 27-4 below.
- (F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the California Penal Code, on or off the residential real property, that is directed at any Owner or agent of the Owner of the residential real property or members of tenant's household or other tenants of the residential real property. This at-fault, just cause provision shall apply if the Owner has, within a reasonable time, reported the criminal activity to law enforcement. Further, at-fault, just cause eviction of a tenant under this provision shall only apply to that tenant who committed the criminal activity described herein. If a tenant is acquitted or found not guilty of the charges giving rise to eviction, or if charges are not filed against the tenant within the applicable statute of limitations period, the tenant shall be offered the right to restore the Tenancy only if the same residential real property is available.
- (G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.

Notwithstanding any contrary provision in this section, an Owner shall not take any action to terminate a Tenancy based on a tenant's sublease of the residential real property if all the following requirements are met:

- (1) The tenant requests permission from the Owner in writing to sublease the residential real property;

- (2) The tenant continues to reside in the residential real property as their primary residence;
 - (3) The sublease replaces one or more departed tenants under the lease on a one-for-one basis; and
 - (4) The Owner fails to respond to the tenant in writing within a reasonable amount of time of the receipt of the tenant's written request. If the Owner fails to respond to the tenant's written request, the request shall be deemed approved by the Owner if the lease is for a period of one (1) year or less. An Owner's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a residential real property exceeds the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code or successor provision.
- (H) The tenant's refusal to allow the Owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the California Civil Code, and Sections 13113.7 and 17926.1 of the California Health and Safety Code.
 - (I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
 - (J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the California Code of Civil Procedure.
 - (K) When the tenant fails to deliver possession of the residential real property after providing the Owner written notice as provided in Section 1946 of the California Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the Owner but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the California Code of Civil Procedure.

SEC. 27-4. NO-FAULT JUST CAUSE

No-Fault Just Cause includes any of the following:

- (A) Intent to occupy the residential real property by the Owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

For leases entered into on or after the effective date of this Ordinance, this subsection shall apply only if the tenant agrees, in writing, to the

termination, or if a provision of the lease allows the Owner to terminate the lease if the Owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents unilaterally decides to occupy the residential real property for a period of at least 24 months, as affirmed by the Owner in a written affidavit submitted to the city. Addition of a provision allowing the Owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar lease provision for the purposes of City Code section 27-3 (E).

- (B) Withdrawal of the residential real property from the rental market under, and subject to, the provisions of the Ellis Act.
- (C) The Owner complying with an order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(1) Exception. If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate, then the tenant shall not be entitled to relocation assistance as outlined in Section 27-6(C).

- (D) Intent to demolish or to substantially remodel the residential real property.

For purposes of this Section, “substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, State, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as a substantial remodel.

(1) The Owner shall provide 60 days advance written notice to the tenant of the ability to reoccupy the unit upon completion of the repairs, or if requested by the tenant, the right of first refusal to any comparable vacant rental unit which has been offered at comparable rent owned by the Owner; and

(2) In the event the Owner seeks to rent the remodeled unit within six (6) months following the completion of the remodeling work, the evicted tenant shall have the right of first refusal to reoccupy

and rent the unit, unless the Owner provides a written waiver by the tenant of their right to reoccupy the premises pursuant to this subsection.

SEC. 27-5. JUST CAUSE CURABLE LEASE VIOLATION

Before an Owner of residential real property issues a notice to terminate a Tenancy for just cause that is a curable lease violation, the Owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the California Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the Tenancy.

Any written notice to cease or correct must:

- (A) Be dated and served upon the tenant, pursuant to at least one of the methods authorized under California Code of Civil Procedure Section 1162, as may be amended;
- (B) Inform the tenant that failure to cure may result in the initiation of eviction proceedings;
- (C) Inform the tenant of the right to request a reasonable accommodation;
- (D) Inform the tenant of the contact number for the City; and
- (E) Include a specific statement of the reasons for the written notice to cease or correct with specific facts to help the tenant determine the date(s), place(s), witness(es), and/or circumstance(s) that support the reason(s) for the eviction.

SEC. 27-6. NO-FAULT JUST CAUSE TENANT RELOCATION ASSISTANCE

- (A) For a Tenancy for which just cause is required to terminate the Tenancy under this Article, if an Owner of residential real property issues a termination notice based on a no-fault just cause as defined in section 27-4, the Owner shall, regardless of the tenant's income, provide a direct payment to the tenant as described in paragraph C of this Section.
- (B) If an Owner issues a notice to terminate a Tenancy for no-fault just cause, the Owner shall notify the tenant of the tenant's right to relocation assistance and all other rights pursuant to this section.

- (C) The amount of relocation assistance shall be equal to (i) two months of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy, or (ii) \$5,000, whichever is greater. Any relocation assistance shall be provided within 15 calendar days of service of the notice.
 - (1) If a tenant fails to vacate after the expiration of the notice to terminate the Tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.
 - (2) The relocation assistance required by this section shall be credited against any other relocation assistance required by any other law.
- (D) An Owner's failure to strictly comply with this section shall render the notice of termination void.

SEC. 27-7. EXEMPTIONS

This Article shall not apply to the following types of residential real properties or residential circumstances:

- (A) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code, and properties that have obtained a City of Oxnard Short Term Vacation Rental Permit and are operating in compliance with that permit and regularly remitting the required Transit Occupancy Tax demonstrating active use as a vacation rental property.
- (B) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the California Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
- (C) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- (D) Housing accommodations in which the tenant shares a bathroom or kitchen facilities with the Owner who maintains their principal residence at the residential real property.
- (E) Single-family Owner-occupied residences, including a residence in which the Owner-occupant rents or leases no more than two bedrooms.

- (F) A duplex in which the Owner occupied one of the units as the Owner's principal place of residence at the beginning of the Tenancy, so long as the Owner continues in occupancy.

SEC. 27-8. DEFINITIONS

For the purposes of this Article, the following definitions shall apply:

- (A) "Owner" and "residential real property" have the same meaning as those terms are defined in California Civil Code Section 1946.2.
- (B) "Tenancy" means the lawful occupation of residential real property, including Accessory Dwelling Units, or mobile home spaces that are not subject to Chapter 24, *Mobile Home Parks*, of the Oxnard City Code, and includes a lease or sublease, as such may be subject to local ordinance.

SEC. 27-9. NOTICES

- (A) Notice of existence of this Chapter

The Owner shall post a notice providing information about the existence of this Chapter 27 of the City Code, including protections related to immigration or citizenship status of tenant found under California Civil Code section 1940.35 and California Code of Civil Procedure section 1161.4, as may be amended. Notice must be posted in English, Purépecha, Mixteco, Otomi, Tagalog, Zapoteco, Nahuatl, and Spanish in a conspicuous location on the property.

In addition to all other notice requirements specified elsewhere in this Article, the Owner of any residential real property is required to provide written notice to tenants of their rights under this Article as follows:

- (1) The notice required by this Article must include the following information:
 - (a) The existence and scope of this Article of the City Code; and,
 - (b) The right to relocation assistance in limited circumstances pursuant to Section 27-6.
- (2) The Owner must provide tenant with the notice upon serving any notice of change in terms of Tenancy.
- (3) The Owner must provide the notice on or before the commencement of all Tenancies initiated after the effective date of this Chapter.

(B) Notice of termination of Tenancy

When terminating a Tenancy either at-fault or no-fault, an Owner must comply with all of the following:

- (1) The Owner must serve a written notice in accordance with California Civil Code sections 1946 through 1946.5, to the tenant that states that, in addition to any information required by federal or State law, the Owner will terminate the Tenancy, and that indicates at least one at-fault or no-fault just cause reason; and
- (2) The Owner has not accepted and will not accept rent or any other consideration in return for the continued use of the residential property beyond the term of the terminated Tenancy in compliance with California Civil Code sections 1945 through 1946.5; and
- (3) The Owner qualifies the termination as at-fault or no-fault just cause; and
- (4) The Owner has submitted to the city, within five (5) days after service of the notice of termination on the tenant, a true and accurate copy of the Owner's written notice of termination, and proof of such service, signed by the Owner under penalty of perjury, on the tenant. The Owner shall maintain proof of service to the city as evidence that the Owner has complied with this section.
- (5) When the Owner and tenant have entered into a written lease, the Owner must provide the notice in the language used in the lease, in addition to English. When the Owner and tenant have not entered into a written lease, the Owner must provide the notice in the language that the Owner and tenant used to negotiate the terms of the Tenancy, in addition to English.

(C) Notice as addendum to lease or rental agreement

An Owner of residential real property subject to this Section shall provide notice to the tenant as follows:

- (1) For any Tenancy commenced or renewed on or after the effective date of this Ordinance, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.
- (2) The Owner must provide the notice in the language that the Owner and tenant used to in the lease, in addition to English.

- (3) For a Tenancy existing prior to the effective date of this Ordinance, by written notice to the tenant no later than thirty (30) days after the effective date of this Ordinance, or as an addendum to the lease or rental agreement.
- (4) The notification or lease provision shall be in no less than 12-point type, and shall include the following: "The Oxnard City Code provides that after all of the tenants have continuously and lawfully occupied the property for at least thirty (30) days, an Owner must provide a statement of cause in any notice to terminate a Tenancy. In addition, Oxnard City Code provides tenants evicted for no-fault just cause with the right to relocation payments. See Chapter 27 of the Oxnard City Code for more information."
- (5) Owners must provide the notice to tenants in writing if the application and lease are processed in writing, electronically if the application or lease are processed electronically, or both if both methods are utilized. The provision of the notice shall be subject to California Civil Code Section 1632.

SEC. 27-10. ADDITIONAL TENANT PROTECTIONS

- (A) The city manager may adopt administrative procedures and regulations to implement the provisions of this Ordinance.
- (B) Once established by the City Council, all owners with rental units shall pay the tenant protection program fee, as established by city council resolution. The tenant protection program fee is to fund the city's cost to implement and enforce the provisions of this Ordinance.
- (C) It is illegal for an Owner or representative to retaliate against a tenant for lawfully and peaceably exercising their legal rights, including but not limited to, the right to file a complaint with Code Compliance. No owner may take any action increasing any rental amount, reducing any service, causing the tenant to involuntarily quit the premises, or discriminating against the tenant because of the tenant's use of any remedy provided by this Ordinance.
- (D) Any provision of a rental housing agreement that purports to waive any provision of this Ordinance is void as against public policy.
- (E) An owner's failure to comply with any requirement of this Ordinance is an affirmative defense in an unlawful detainer or other action brought by the owner to recover possession of the rental unit.

SEC. 27-11. VIOLATIONS

- (A) It shall be unlawful for any person to violate or fail to comply with any provision of this Article. The violation of any provision of this chapter shall first be punished through the use of a civil citation, prior to prosecution as a misdemeanor, infraction, or civil injunction as provided in Oxnard City Code section 1-10.
- (B) Any person whose rights pursuant to this Ordinance have been violated shall have the right to file an action for injunctive relief and damages. Whoever is found to have violated this Ordinance shall be subject to appropriate injunctive relief and shall be liable for damages, costs, and reasonable attorney fees. Treble damages shall be awarded for willful failure to comply with the Relocation Payment obligations established by this Ordinance. Any action pursuant to this Ordinance shall be a civil matter and adjudicated through civil court.

SEC. 27-12. SUNSET

This Article shall automatically sunset on December 31, 2030.”

Section 5. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2), 15060(c)(3) and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project," as defined in section 15378 of the State CEQA Guidelines.

Section 6. The city manager shall, on an annual basis and at any other time that the city manager determines to be appropriate, provide a report that documents the level of landlord compliance with this chapter and other related rental housing matters. At least 60 days prior to the expiration date of this ordinance, the city manager shall provide a report to city council that addresses the status of the rental housing market, including, but not limited to, the affordability and availability of rental units.

Section 7. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

Section 8. Within 15 days after passage, the City Clerk shall cause a summary of this ordinance to be published one time in a newspaper of general circulation published and circulated in the City. Ordinance No. _____ was first read on April 13, 2022, and finally adopted on _____, 2022, to become effective thirty (30) days thereafter.

Section 9. This ordinance shall become effective thirty (30) days after it is finally adopted. The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OXNARD ADDING ARTICLE II TO CHAPTER 27 OF
THE OXNARD CITY CODE ESTABLISHING RENT
STABILIZATION REGULATIONS INCLUDING
PROHIBITING RESIDENTIAL REAL PROPERTY RENTAL
RATE INCREASES THAT EXCEED FOUR PERCENT (4%)
ANNUALLY

THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS
FOLLOWS:

Section 1. The City Council of Oxnard hereby finds, determines and declares
as follows:

- A. At the City Council meetings on October 19, 2021, February 9, 2022, and April 13, 2022, the City Council discussed the City of Oxnard's ("Oxnard" or "City") ability to address rent increases on residential real property.
- B. The increasing housing rent burden and poverty faced by many residents in the City threatens the health, safety, and welfare of its residents by forcing them to choose between paying rent and providing food, clothing, and medical care for themselves and their families.
- C. The average household in the City has a median annual income of \$72,843, which is below the State median income (\$80,440) and the Ventura County median income (\$92,236). The median income in the City is also substantially lower than some of its neighboring cities, such as Thousand Oaks (\$109,378). The City's housing stock consists of 51,460 units—27,631 of which are owner-occupied and 23,829 of which are renter-occupied.
- D. The U.S. Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who classifies as impoverished. According to the Census Bureau, in 2019, the City had a poverty rate of 13.8%--a number that is higher than the national average of 12.3%.
- E. Between 1996 and 2016, median home sales prices in the Southern California Association of Governments ("SCAG") region increased 206% from \$180,870 to \$552,994. During that same period the median income decreased by \$3,616 (when adjusted to 2016 dollars). In Oxnard, the median home price increased by 40.2% between 2013-2019 (\$323,700 to \$453,900). However, during that same period, the median family income in Oxnard grew at a disproportionate rate of 19% (\$60,784 to \$72,843).

- F. The increase in the cost of housing within the City can be attributed to new developments in the past 20 years, such as new communities like Seabridge, RiverPark and Victoria Estates where a three bedroom home ranges from \$700,000 to \$2,000,000. The two-bedroom average rent in the City has increased by 18% over the past three years from \$1,823 to \$2,155, which indicates that households with the median income of \$72,843 cannot afford or would struggle to afford the average rent. A household with a median income of \$72,843 living in a two bedroom unit costing \$1,823 per month, would need to spend 30% of their income on housing.
- G. In the City, approximately 6,839 renter-occupied households had more than one occupant per room, which meets California's definition for overcrowding. Further, approximately 2,500 renter-occupied households had more than 1.5 occupants per room, which meets California's definition of severe overcrowding.
- H. The housing rent burden and poverty faced by many residents in Oxnard threatens the health, safety, and welfare of its residents, particularly when resulting in eviction and displacement. Studies have shown that evictions play an impactful role in the lives of low income renter households and can also contribute to poverty through disruptive effects such as job loss, adverse health effects, and negative consequences for children.
- I. Moreover, an eviction can remain on a renter's credit history for at least seven years, impacting one's ability to rent and find employment opportunities.
- J. The Costa-Hawkins Rental Housing Act, *California Civil Code* section 1954.50, et seq., limits the applicability of local rent stabilization policies, including prohibiting local jurisdictions from applying rent stabilization to certain residential rental properties. This Ordinance intends to comply with the Costa-Hawkins Rental Housing Act, and all other applicable state and federal laws.
- K. Increasing the number of homeless residents in Oxnard, particularly elderly residents who may be in need of medical or other care, could create a public health and safety risk.
- L. The economic conditions and recognized housing shortage in Southern California have the potential to detrimentally impact a substantial number of residents in Oxnard, and impose a particular hardship on senior citizens, persons living on fixed incomes, and other vulnerable persons living in Oxnard.
- M. The Mobilehome Residency Law ("MRL"), *California Civil Code* sections 798, et seq., expressly authorizes cities to regulate the setting and/or increasing of rents for the use and occupancy of a mobile home space, subject to certain exceptions.

- N. Through City Code Chapter 24, Article I, the City previously established a rent stabilization system for mobile home parks, and the City Council desires to leave that system intact.
- O. With the exception of City Code Chapter 24, Article I, the City has not previously regulated the setting and increasing of rents for residential real property. Given the concerns discussed herein, the City Council desires to evaluate rent stabilization policies protecting residents outside of mobile home parks from unreasonable rent increases, while ensuring that the owners of residential real property may earn a fair and reasonable return on their property.
- P. Pursuant to the City's police power, as granted broadly under Article XI, section 7 of the California Constitution, the City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and welfare of the City and its residents.
- Q. Based on the foregoing facts, and the facts presented to the City Council at the meetings at which this ordinance was introduced and adopted, the City Council finds that allowing owners of residential real property to have unfettered discretion to increase rents would pose a threat to the public health, safety, and welfare, and that a prohibition of rent increases, except as allowed herein, is therefore necessary.
- R. The City Council hereby adopts these regulations in order to address the threats set forth below.
1. Absent the adoption of this ordinance, as a result of the economic conditions and recognized housing shortage in Southern California, significant rent increases will impact a substantial number of residents in Oxnard and constitute a threat to public health, safety, and welfare, and a particular hardship for senior citizens, persons living on fixed incomes, and other vulnerable persons living in the City;
 2. For the preservation of the public peace, health, and safety, the City Council finds that it is necessary to adopt an ordinance stabilizing rents for all of the reasons set forth in the recitals above, which are hereby incorporated by reference; and
 3. Certain aspects of public health, safety, and welfare are not adequately protected by the City's existing mobile home park rent stabilization system both because of that system's limited scope and due to the City's lack of rent stabilization mechanics or controls on residential real property generally, and it is in the interest of the City, owners, residents, and the community as a whole that the City adopt regulations to protect affordable housing within the City, including, but not limited to, rent stabilization regulations applicable to residential real property generally.

- S. The direction for this ordinance dated October 19, 2021, February 9, 2022, and April 13, 2022, shall be incorporated herein by this reference, and together with this ordinance, any amendments or supplements, and oral testimony, shall constitute the necessary findings for this ordinance.
- T. The City Council finds, determines and declares that the threat to the public health, safety, and welfare of the City and its residents necessitates the enactment of the ordinance.

Section 2. The recitals and statements of fact set forth in the preamble to this ordinance are true and correct, constitute a substantive part of this ordinance, and are incorporated herein by this reference.

Section 3. Chapter 27, Article II, is hereby added to the City Code to read as follows:

“Article II: RENT STABILIZATION

SEC. 27–20. CITATION.

This Article shall be known as the “Rent Stabilization Ordinance.”

SEC. 27-21. PROHIBITED INCREASES.

Increases in rent on residential real property in the city of Oxnard in excess of four percent (4%), and more than one rent increase in any twelve (12) month period, are prohibited, unless expressly exempt under the Costa-Hawkins Rental Housing Act codified in California Civil Code section 1954.50, et seq.

SEC. 27–22. REASONABLE RATE OF RETURN.

This ordinance allows for an annual adjustment of residential real property rent of up to four percent (4%). Such an increase is found and determined to provide a just and reasonable return on an owner’s property, and has been adopted to encourage good management, reward efficiency, and discourage the flight of capital, as well as to be commensurate with returns on comparable investments, but not so high as to defeat the purpose of curtailing excessive rents and rental increases. Notwithstanding the foregoing, however, any owner of residential real property who contends that the limit on rental increases set forth in Section 27–21 above will prevent the owner from receiving a fair and reasonable return on their property may petition for relief from the cap set forth in section 27–21 pursuant to the procedures set forth in section 27–23.

SEC. 27–23. FAIR RETURN PETITION FOR RENT INCREASE.

(A) An owner of residential real property may petition for a rent increase in excess of that provided in section 27–21 in order to obtain a fair and reasonable return on their property (“Fair Return Petition”). Such Fair Return Petition shall be on an application form prescribed by the City Manager and shall be decided by the City Manager, or their designee (“City Manager”). Owner shall provide a copy of any Fair Return Petition submitted to the city to the applicable tenant(s), and provide City with proof of completing such service to the applicable tenant(s). The tenant(s) will then have thirty (30) days from the date of receiving the Fair Return Petition to reply or provide additional materials to the City in response to the Fair Return Petition. The owner shall bear the burden of establishing that a rate increase in excess of that provided in section 27-21 is necessary to provide the owner with a fair and reasonable return on their property, including by providing an independent financial report and verified financial data demonstrating that without such an increase, they will not realize a fair and reasonable return on their property.

(B) Owner shall be responsible for all costs associated with the City’s review of the Fair Return Petition. Upon receipt of a Fair Return Petition, the City Manager shall determine the anticipated costs of review and if the employment of expert(s) will be necessary or appropriate for a proper analysis of the owner’s request. If the City Manager so determines, the City Manager shall also determine the anticipated costs of employing such expert(s). The resulting figure shall be communicated to the Owner, and the Fair Return Petition shall not be processed until the owner has paid to the city the estimated cost of the complete analysis. City will provide owner with an invoice of all costs incurred after the review of the Fair Return Petition. Any unused portion of the advance payment for analysis shall be refunded to the owner. If additional funds are required, payment will be required before Owner receives the determination on the Fair Return Petition from the city.

(C) The factors the City Manager may consider in deciding a Fair Return Petition may include, but not be limited to:

- (1) Changes in the Consumer Price Index for All Urban Consumers in the Oxnard-Thousand Oaks-Ventura Metropolitan Area published by the Bureau of Labor Statistics.
- (2) The length of time since the last determination by the City Manager on a rent increase application, or the last rent increase if no previous rent increase application has been made.
- (3) The completion of any capital improvements or rehabilitation work related to the residential real property or mobile home space or spaces specified in the Fair Return Petition, and the cost thereof, including materials, labor, construction interest, permit fees, and other items the City Manager deems appropriate.

- (4) Changes in property taxes or other taxes related to the subject residential real property or mobile home park.
- (5) Changes in the rent paid by the owner for the lease of the residential real property or land on which the subject mobile home park is located.
- (6) Changes in the utility charges for the subject residential real property or mobile home park paid by the owner, and the extent, if any, of reimbursement from the tenants.
- (7) Changes in reasonable operating and maintenance expenses.
- (8) The need for repairs caused by circumstances other than ordinary wear and tear.
- (9) The amount and quality of services provided by the owner to the affected tenant(s).

(D) A Fair Return Petition shall be decided by the City Manager within sixty (60) calendar days of the date that the application has been deemed complete, including proof of service of the Fair Return Petition on the applicable tenant(s). The decision shall be emailed and sent by mail, with proof of mailing to the subject property owner, the owner's designated representative(s) for the Fair Return Petition, the applicable tenant(s), and the designated representative of the tenant(s), if any. The decision of the City Manager shall be final and not appealable.

SEC. 27–24. EXEMPTIONS.

(A) Pursuant to the Costa-Hawkins Rental Housing Act, the provisions of this ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following: any residential real property that has a certificate of occupancy issued after February 1, 1995 (California Civil Code section 1954.52(a)(1)); and, any other provisions of the Costa-Hawkins Rental Housing Act addressing exemptions, as applicable.

(B) Pursuant to the Tenant Protection Act of 2019, California Civil Code section 1947.12(d), the provisions of this ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following:

- (1) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the California Health and Safety Code, or subject to an agreement that provides

housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the California Health and Safety Code or comparable federal statutes.

- (2) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- (3) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(a) The owner is not any of the following:

- i. A real estate investment trust, as defined in section 856 of the Internal Revenue Code.
- ii. A corporation.
- iii. A limited liability company in which at least one member is a corporation.

(b) At the time the tenancy is created:

- i. The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Oxnard City Code Chapter 27, Article II and the owner is not any of the following: (1) a real estate investment trust, as defined by section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

- ii. For a tenancy existing before the effective date of this ordinance, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.
 - iii. For a tenancy commenced or renewed on or after the effective date of this ordinance, the notice required under clause (i) must be provided in the rental agreement.
- (4) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy

so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

(C) The provisions of this ordinance regulating the amount of rent that a residential real property owner may charge shall not apply to the following:

- (1) A unit subject to City Code Chapter 24, Article I, the City's Mobile Home Park Rent Stabilization System.
- (2) A unit in a hotel, motel, inn, tourist home, or rooming and boarding house which is rented primarily to transient guests for a period of less than 30 days; and other transient occupancies as defined in California Civil Code section 1940, subdivision (b).
- (3) A unit in an institutional facility, including a hospital, medical care facility, residential care facility, asylum, group home for seniors or the disabled; a rental unit in a transitional housing program that assists homeless persons as defined in California Civil Code section 1954.12; a convent or monastery owned and operated by a religious organization; and a fraternity or sorority house affiliated with a college or university.
- (4) A unit that the owner or the owner's immediate family occupied as their principal place of residence at the beginning of the tenancy so long as the owner or the owner's immediate family continues in occupancy.

SEC. 27-25. RENT INCREASE INEFFECTIVE.

No rent increase shall be effective if the owner:

- (A) Fails to substantially comply with all provisions of this article, including but not limited to the failure to provide notices as required; or
- (B) Fails to maintain the residential real property in compliance with California Civil Code Sections 1941.1 et seq. and California Health and Safety Code sections 17920.3 and 17920.10; or
- (C) Fails to make repairs ordered by the city or court of competent jurisdiction.

SEC. 27-26. NOTICE REQUIREMENTS.

- (A) An owner of any residential real property subject to this article shall, on or before the date of commencement of a tenancy, give the tenant a written notice in a form prescribed by the City which must include the following information:

- (1) The existence and scope of this Chapter 27, Article II of the City Code; and
- (2) The tenant's right to respond to any Fair Return Petition filed with the City by the owner pursuant to section 27-23.

(B) As part of any notice to increase rent, an owner must include:

- (1) Notice of the existence of this Chapter 27, Article II of the City Code; and
- (2) The tenant's right to respond to any Fair Return Petition filed with the City by the owner pursuant to section 27-23, unless such rent increase is pursuant to an approved Fair Return Petition.
- (3) No rent increase shall take effect until the requirements of this article have been met.

(C) When the owner and tenant have entered into a written lease, the owner must give notices to the tenant in the language used in the lease. When the owner and tenant have not entered into a written lease, the owner must give notices to the tenant in the language that the owner and tenant used to negotiate the terms of the tenancy.

SEC. 27-27. DEFINITION OF RENT.

For the purposes of this article, "Rent" means all periodic payments and all nonmonetary consideration, including, but not limited to, the fair market value of goods or services rendered to or for the benefit of the owner under an agreement concerning the use or occupancy of residential real property, including, but not limited to, all payment and consideration demanded or paid for parking, pets, furniture, and subletting.

SEC. 27-28. VIOLATIONS.

(a) It shall be unlawful for any person to violate or fail to comply with any provision of this article. The violation of any provision of this article shall first be punished through the use of a civil citation, prior to prosecution as a misdemeanor, infraction, or civil injunction as provided in City Code section 1-10.

(b) Any owner who intentionally demands, accepts or retains any payment in violation of the provisions of this article shall be liable in a civil action to the tenant from whom such payment is demanded, accepted, or retained for damages in the sum of three times the amount by which the payment demanded, accepted, or retained exceeds the maximum amount which could be lawfully demanded, accepted, or retained together with reasonable attorneys' fees and costs as determined by the court.

SEC. 27-29. FEE ESTABLISHED.

Owners subject to this Ordinance shall pay the rent stabilization fee as established by city council resolution. The rent stabilization program fee is to fund the city's cost to implement and enforce the provisions of this Ordinance.

SEC. 27-30. SUNSET.

This Article shall automatically sunset on December 31, 2030."

Section 4. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project", as defined in section 15378 of the State CEQA Guidelines.

Section 5. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

Section 6. Within 15 days after passage, the City Clerk shall cause a summary of this ordinance to be published one time in a newspaper of general circulation published and circulated in the City. Ordinance No. _____ was first read on _____, 2022, and finally adopted on _____, 2022, to become effective thirty (30) days thereafter.

Section 7. This ordinance shall become effective thirty (30) days after it is finally adopted. The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the _____ day of _____, _____, by the following vote:

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AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

John C. Zaragoza, Mayor

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. K.1

DATE: May 3, 2022

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Five Year Capital Improvement Program for Fiscal Years 2022-2027. (0/15/15)

RECOMMENDATION

That the City Council:

1. Hold a public hearing to receive public testimony regarding the proposed 2022-2027 City of Oxnard Five-Year Capital Improvement Program; 2. Approve and authorize the Fiscal Year 2022-23 & 2023-24 projects to be selected from the Proposed 2022-2027 City of Oxnard Five Year Capital Improvement Program; and
3. Adopt the 2022-2027 City of Oxnard Five Year Capital Improvement Program.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the April 26, 2022 Public Works and Transportation Committee. Staff is available to answer any questions.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/6ibQu-BEMDI>

BACKGROUND

The purpose of a capital improvement program (CIP) is to provide an overview of the City's current and reasonably anticipated construction and repair needs over the next five years. The City's CIP contains projects to restore city facilities, and each project must have a cost of \$100,000 or more, including design, environmental review, and construction. The CIP currently has approximately 140 funded projects listed over the five years, and the total cost of all projects, including prior appropriations, is approximately \$700 million. This is inclusive of the approximately \$26 million of American Rescue Plan Act (ARPA) funds that were appropriated to capital projects in this past year.

The CIP does not address maintenance activities, which are included in operation and maintenance budgets, or the rehabilitation of all of the City's assets; repairs to a city's fleet, for example, are not typically included in a CIP. Examples of projects included in the CIP are:

- Construction and major alterations of buildings
- Information technology (IT) hardware (but not software)
- Pipeline replacement
- Playground structure replacement
- Street rehabilitation
- Traffic signal hardware installation
- Wastewater Treatment Plant electrical work

Planning over a five-year horizon is critical for budgeting resources – both personnel and financial. Adopting a CIP

allows staff to schedule projects according to anticipated revenues and workload capacity. This also makes the Council's priorities clear to staff as grant opportunities arise.

A CIP is a five-year projection and plan. It is possible that next year there may be changes in planned projects or that new projects could be added as unforeseen circumstances arise.

Challenges

The City faces a number of challenges when it comes to maintaining our assets.

- **Aging Infrastructure:** The City of Oxnard is over 100 years old, and much of our infrastructure is old. Roads, storm drains, utilities and buildings all have a limited service life. The City's assets have aged but sufficient funding has been limited to reinvest to keep our assets in good condition.
- **Competing Costs:** The City has grown during its lifetime and, thus, has required increases in City services, especially in the areas of public safety, and an expansion of public infrastructure. These costs compete with each other for funding.
- **Deferred Maintenance:** Past budgets have not kept up with maintenance and replacement of the City's physical assets. Repairs and replacement of buildings, vehicles and equipment are being addressed on an emergency basis. This is not cost effective.
- **Unassessed Capital Deficiencies:** Many of the City's assets have surpassed their useful lives but are still in service. An inventory will identify the physical condition of each asset and will recommend maintenance or replacement.
- **Unfunded Mandates:** State and local regulators continue to develop and implement new requirements that often require initial capital expenditures, without providing a funding source. In order to stay in compliance with the mandates, the City must invest existing local funding into new requirements.

Project Prioritization

Since there are more needs than there is funding to meet those needs, projects must be prioritized. Staff prioritized as follows:

- **Priority 1 (Health and Safety):** These projects are needed to maintain or improve human health or safety. An example is the Rice Avenue and Fifth Street Railroad Grade Separation project. This location has a history of vehicle versus train collisions, and this project will eliminate that potential. Certain projects that keep the Wastewater Treatment Plant from malfunctioning are related to health, as untreated sewage can lead to critical impacts. Some of the Fire and Police projects fall into this category as well.
- **Priority 2 (Asset Preservation):** These projects are needed to maintain or protect our existing assets. An example are the street paving projects. Our pavement management program aims to pave our poorest condition and arterial roads first. Waiting until the pavement fails is much more costly.
- **Priority 3 (New or Expanded Services):** These are projects that create something new, like a new park, or increase the capacity of existing facilities, like large water or sewer lines.

Within these priorities, staff also considered:

- **Council Priorities:** On March 16, 2021 Council adopted the City's Five-Year priorities which included various items that fall within the CIP such as restoring proper street paving cycle. As a result, Council directed staff to identify funding to reach an average pavement condition index (PCI) of 70 by September 2024 by allocating an additional \$14.6 million over the subsequent three fiscal years.
- **Grant Funding:** If there is already grant funding awarded and available, there is a deadline for constructing the project. We never want to lose money, so these projects are given priority over projects for which the only funding source is General Fund.

- Urgency: Priority 2 (Asset Preservation) is a large category, but some of these projects are more urgent than others. An example would be sewer manholes. Over time, sewer gasses like hydrogen sulfide eat away at the concrete and steel in the structure, and the manholes need to be replaced.
- Staff Capacity: Even if there were enough money to complete all of these projects, there would not necessarily be enough staff to manage all projects. Once projects were prioritized, the list of projects was balanced against available staff resources, also taking into consideration what contract services could be enlisted to complete each project.

The CIP Development Process

Staff navigated a rigorous process to prepare the CIP, as follows:

- Departments identified necessary capital improvements and submitted those to the CIP working group. The departments clarified the requested scope of work, and Public Works staff confirmed the requested repair or change would be the right fix for the problem.
- Staff reviewed projects for conformity with the General Plan and other needs assessments. For example, bicycle facility projects need to be in conformance with the Bicycle and Pedestrian Master Plan and park projects need to be in conformance with the Parks and Recreation Master Plan.
- Staff verified cost estimates and recommended priorities for funding. Public Works staff developed independent cost estimates to ensure the accuracy of the provided estimates.
- Staff updated the introductory portion of the CIP document to give a broad overview of the proposed projects in a greater context of City needs.
- Staff presented the CIP projects to the Planning Commission on May 7th, 2020. In accordance with Section 65401 of the Government Code, the Planning Commission found all new CIP projects to be in conformance with both the City of Oxnard 2030 General Plan and the City of Oxnard Local Coastal Plan. The Planning Commission's adopted resolution making this finding is attached to this staff report. Presenting to this Committee is the sixth step in this process, and if so recommended, the final step will be to present the CIP to the City Council for adoption.

DISCUSSION

The CIP explains where the City is in terms of many assets and needs, what a capital program and project are, how projects were selected and prioritized, and how projects are financed. The document highlights examples of projects by funding source, Council district and fiscal year. All projects are sorted in the appendices in the following ways:

- By fiscal year, then funding source
- By fiscal year, then by district
- By fiscal year alone
- By fiscal year, then by priority

The projects are organized into six categories: buildings, information technology (IT), parks and open space, seawalls, transportation and drainage, and utilities. Each category has a different icon on the top right of the project sheets and a related color. Within each category, the projects are listed alphabetically. The project sheets include, per project:

- The project title
- Location
- Council district(s) impacted (or a project may have citywide benefit)
- Project description
- Purpose and need
- Relevant category and goal of the General Plan
- Fiscal years the project will span
- Funding source and cost estimate
- Priority level

- Name, photo and contact information for the Project Manager

The task of the Public Works and Transportation Committee is to recommend, and later the Council to determine, which CIP projects should be funded in which fiscal year. Though this is a five-year CIP, only those projects that the Committee will recommend, and the Council would approve for funding, are those in fiscal years 2022-23 & 2023-24. In order to provide better project planning and more efficient use of staff time, funding allocations for a two-year CIP budget are being proposed, rather than previous years when only a single year's allocations were provided. The projects' identified funding for fiscal year 2022-23 will be integrated into the City's 2022-23 budget. Projects in subsequent fiscal years beyond 2023-24 will return for funding consideration in future annual CIP documents. Projects that were previously approved by the City Council for funding in prior years that have yet to be completed, will continue and are shown in the document.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

There is no direct fiscal impact with the adoption of the Proposed 2022-2027 Five-Year CIP. The CIP provides a full fiscal presentation of capital projects planned to be undertaken in the next five (5) years, provided funding is available. The projects that the Council identify and approve to be adopted in the CIP for FY 2022-23 will be presented for adoption during the City's budget approval process in June. Projects in subsequent fiscal years beyond 2023-24 will be included for funding consideration in future annual CIP documents. Additionally, projects approved by the City Council in prior fiscal years that have not yet been completed will have the unencumbered budgets rolled over into the FY 2022-23 budget.

COMMITTEE OUTCOME

As of the date of this City Council agenda being posted, there is not yet an outcome from the April 26, 2022 Public Works and Transportation Committee. Staff is available to answer any questions.

Prepared by: Tatiana Arnaout, City Engineer

ATTACHMENTS

1. Proposed CIP 2022-2027 Placeholder
2. List of funding requests for FY 22-23 & 23-24
3. 2022-20 CIP Planning Commission Resolution
4. Presentation

Five Year Capital Improvement Program for Fiscal Years 2022-2027

FY 22-23 & 23-24 Appropriations Summary List			
	CIP Page No.	FY 22-23	FY 23-24
Measure O Sales Tax Fund (104)			
Citywide Alleyway Resurfacing	49	\$ 2,250,000.00	\$ 2,250,000.00
Air Pollution Buydown Fee Fund (118)			
Etting Road Bicycle & Pedestrian Facilities Installation	56	\$ 589,700.00	\$ -
LMD 43 Fund (165)			
Greenbelt LMD 43 Lighting Replacement	29	\$ -	\$ 75,000.00
CFD #4-Seabridge Fund (173)			
Seabridge Light Replacement	41	\$ 325,000.00	\$ -
CFD #5-Riverpark Maint.Fd Fund (174)			
Riverpark Irrigation Control System Replacement	40	\$ 300,000.00	\$ -
RMRA Gas Tax (2032 H (2)) Fund (185)			
Arterial Street Resurfacing	47	\$ 2,665,497.00	\$ 4,000,000.00
Edison Canal Bridge Rehabilitation	54	\$ 352,358.00	\$ -
Mandalay Bay Bridge Rehabilitation	61	\$ 107,130.00	\$ -
TCEP (189)			
Rice Avenue & Fifth Street Railroad Grade Separation	70	\$ -	\$ 75,900,000.00
Transportation Grant-State Fund (210)			
4th Street Mobility Improvements	45	\$ -	\$ 4,146,675.00
Rice Avenue & Fifth Street Railroad Grade Separation	70	\$ -	\$ 5,000,000.00
Fed.Transport. Multiyear Grants Fund (275)			
Ventura Boulevard Sidewalk - Rose Avenue to Balboa Street	81	\$ 866,489.00	\$ -
Capital Outlay Fund (301)			
City Hall HVAC & EMS	2	\$ 800,000.00	\$ -
Fire Station Alerting System Replacement	7	\$ 150,000.00	\$ 150,000.00
Public Restroom Improvements	13	\$ 1,000,000.00	\$ 1,000,000.00
Roof Replacement - Various Facilities	16	\$ 1,000,000.00	\$ 500,000.00
South Oxnard Branch Library HVAC Renovation	21	\$ 1,550,000.00	\$ -
WiFi in the Parks	22	\$ -	\$ 300,000.00
Playground Replacement	36	\$ -	\$ 4,500,000.00
Cypress Road Railroad Crossing Upgrade	52	\$ 75,000.00	\$ -
Edison Canal Bridge Rehabilitation	54	\$ 3,327,642.00	\$ -
Mandalay Bay Bridge Rehabilitation	61	\$ 826,870.00	\$ -
Neighborhood Street Resurfacing	62	\$ 1,663,000.00	\$ -
Ramona Preschool Pedestrian Crossing Enhancements	68	\$ 391,000.00	\$ -
Stormwater Catch Basins Full Capture Devices Installation	76	\$ 100,000.00	\$ 100,000.00
Traffic Signal Modernization	78	\$ 1,000,000.00	\$ 1,000,000.00
Park Fees-Quimby Reserve Fund (351)			
Via Marina Park Renovation	43	\$ 100,000.00	\$ 1,115,952.00
Storm Drain Facility Fee Fund (353)			
Storm Drain Construction	73	\$ -	\$ 1,150,000.00
Circulation Sys.Impr.Fees Fund (354)			
Five Points Intersection Modernization	57	\$ 250,000.00	\$ -
Traffic Signal Modernization	78	\$ 560,000.00	\$ 560,000.00

Rice Avenue & Fifth Street Railroad Grade Separation	70	\$ 200,000.00	\$ -
Capital Growth Fees-Resid Fund (355)			
Fire Station 4 Rebuild	6	\$ 1,500,000.00	\$ 4,000,000.00
Water Operating Fund (601)			
Water Distribution: Automated Meter Infrastructure Replacement	122	\$ 8,000,000.00	\$ 8,000,000.00
Water Production: Blending Station 1 ATS and Panel Replacement	129	\$ 75,000.00	-
Water Production: Blending Station Upgrades	130	\$ 250,000.00	-
Water Production: Chemical Tank Replacements	131	\$ 150,000.00	\$ 150,000.00
Security-Contam.Prev.Fund (608)			
Water Campus: Security Improvements	119	\$ 444,500.00	-
Water Bond Fund (609)			
Water Distribution: CMWD Transmission Main	123	\$ 1,300,000.00	\$ 1,500,000.00
Water Distribution: Hobson Park East Neighborhood Cast Iron Pipe Replacement	125	\$ -	\$ 3,202,200.00
Water Distribution: Kamala Park Neighborhood Cast Iron Pipe Replacement	126	\$ -	\$ 8,711,100.00
Water Production: Desalter Upgrades and Brine Minimization	132	\$ 2,225,000.00	\$ -
Water Production: New Wells - Water Division Headquarters	134	\$ -	\$ 500,000.00
Water Production: System SCADA Improvements	135	\$ 1,650,000.00	\$ -
Wastewater Collection Operating Fund (611)			
Wastewater Collection: Gravity Main Improvements	97	\$ 750,000.00	\$ 750,000.00
Wastewater Collection: Lift Station Improvements	98	\$ 825,000.00	\$ 2,300,000.00
Wastewater Collection: Odor Reduction Program	99	\$ 1,200,000.00	\$ -
Wastewater Collection: Sewer Manhole Rehabilitation and Replacement	100	\$ 750,000.00	\$ -
Wastewater Collection: UPRR Central Trunk Sewer Pipe Replacement	101	\$ 2,500,000.00	\$ -
Wastewater OWTP: Effluent Disposal Improvements	105	\$ 500,000.00	\$ 6,000,000.00
Wastewater OWTP: Headworks Variable Frequency Drives (VFD) Replacement	108	\$ 1,500,000.00	\$ -
Wastewater OWTP: Maintenance Building Expansion	110	\$ 3,000,000.00	\$ -
Wastewater OWTP: Plant Control Center Locker Room Remodel	114	\$ 100,000.00	\$ 400,000.00
Wastewater Capital Fund (617)			
Wastewater OWTP: Electrical Improvements	106	\$ 6,191,000.00	\$ -
Wastewater OWTP: Motor Control Center (MCC) Construction	111	\$ 5,350,000.00	\$ -
Wastewater OWTP: New Maintenance Storage Building	112	\$ 2,000,000.00	\$ -
Wastewater OWTP: Reliability Improvements	116	\$ 2,500,000.00	\$ -
Wastewater Treatment Operating Fund (621)			
Wastewater OWTP: Digester/Cogeneration Improvements	103	\$ -	\$ 100,000.00
Wastewater OWTP: Dissolved Air Flotation Improvements	104	\$ -	\$ 100,000.00
Wastewater OWTP: Outfall Repair	113	\$ 250,000.00	\$ 1,250,000.00
Wastewater OWTP: Primary Clarifiers and Activated Sludge Improvements	115	\$ 1,250,000.00	\$ 3,000,000.00
Wastewater OWTP: System SCADA Improvements	118	\$ 4,000,000.00	\$ -
Wastewater Sec & Contamination Fund (628)			
Wastewater OWTP: Site Security Improvements	117	\$ 800,000.00	\$ -
Solid Waste Operating Fund (631)			
Environmental Resources: Roof Replacement - Del Norte Facility	84	\$ 1,500,000.00	\$ -
Golf Course Operating Fund (651)			
CUPA Improvements at River Ridge Golf Course	5	\$ 150,000.00	\$ -
River Ridge Clubhouse Roofing Replacement and Exterior Improvements	14	\$ 500,000.00	\$ -

Aquatic Center Bond Fund (TBD)			
Oxnard Aquatic Center	9	\$ -	\$ 10,000,000.00
Street Bond Fund (TBD)			
Arterial Street Resurfacing	47	\$ 1,900,000.00	\$ 2,000,000.00
Citywide Alleyway Resurfacing	49	\$ 7,750,000.00	\$ 6,250,000.00
Neighborhood Street Resurfacing	62	\$ 5,000,000.00	\$ 8,000,000.00
WIFIA Fund (TBD)			
Recycled Water: Aquifer Storage and Recovery (ASR) Wells Construction	88	\$ -	\$ 5,300,000.00
Recycled Water: AWPf Improvements - Phase I	89	\$ 750,000.00	\$ -
Recycled Water: AWPf Improvements - Phase II	90	\$ -	\$ 3,000,000.00
Recycled Water: AWPf Recycled Water Storage Construction	92	\$ 600,000.00	\$ 2,400,000.00
TOTAL		\$ 87,660,186.00	\$ 178,660,927.00

RESOLUTION NO. 2022-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD FINDING THAT ALL OF THE PROJECTS IN THE PROPOSED 2022-2027 CITY OF OXNARD FIVE YEAR CAPITAL IMPROVEMENT PROGRAM ARE IN CONFORMITY WITH THE 2030 GENERAL PLAN AND COASTAL LAND USE PLAN

WHEREAS, the Oxnard Planning Commission approved a Resolution on March 18, 2021, finding that the projects listed in the 2021-2026 City of Oxnard Five Year Capital Improvement Program (the “2021-2026 CIP”) were in conformity with the City’s 2030 General Plan and Local Coastal Land Use Plan; and

WHEREAS, the Oxnard City Council adopted that 2021-2026 CIP on May 18, 2021; and

WHEREAS, the City of Oxnard proposes to adopt the 2022-2027 City of Oxnard Five Year Capital Improvement Program (the “2022-2027 CIP”); and

WHEREAS, the 2022-2027 CIP is designed to serve as both a financial and project planning document; and

WHEREAS, Government Code Section 65401 requires that the Planning Commission review all capital projects that will be planned, initiated or constructed during the ensuing fiscal years for conformity with the General Plan and Local Coastal Land Use Plan; and

WHEREAS, Government Code Section 65402 requires that real property acquisition or disposition, street vacation or abandonment, public building or structure construction be consistent with the General Plan and Local Coastal Land Use Plan as to location, purpose and extent; and

WHEREAS, the 2022-2027 CIP identifies various potential public projects, which are consistent with the 2030 General Plan and Local Coastal Land Use Plan; and

WHEREAS, the 2022-2027 CIP adds thirty-one (31) projects that were not previously included in the 2021-2026 CIP; and

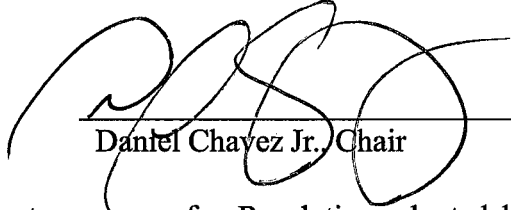
WHEREAS, the 2022-2027 CIP General Plan and Coastal Land Use Plan conformity determination report is not a “project” subject to review under the California Environmental Quality Act (CEQA) because it can be seen with certainty pursuant to CEQA Guidelines Sections 15061(b)(3) and 15378(b)(4) that there is no possibility that a determination of General Plan and Local Coastal Land Use Plan consistency report may have a significant impact on the environment as the proposed 2022-2027 CIP is a

government funding document that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and

WHEREAS, as required by CEQA, environmental review will be conducted prior to construction of the individual projects identified within 2022-2027 CIP. Any required environmental documents will be prepared pursuant to CEQA as part of project permit processing or at any other point in time as required by CEQA.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard reviewed the proposed 2022-2027 CIP and finds that all of the projects within that 2022-2027 CIP conform with the 2030 General Plan and Local Coastal Land Use Plan.

PASSED, APPROVED and ADOPTED by the Planning Commission of the City of Oxnard on this 17th day of March, 2022, by the following vote:



Daniel Chavez Jr., Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held this 17th day of March 2022, and carried by the following vote:

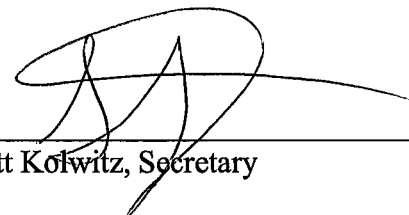
AYES: Chair Chavez, Vice Chair Arruejo, and Commissioners Connelly, Lopez, Meyer, and Sanchez

NOES: Commissioner Nash

ABSENT:

ABSTAIN:

RECUSED:



Scott Kolwitz, Secretary

Adoption of the City of Oxnard Five-Year Capital Improvement Program 2022-2027

Public Works and Transportation Committee
April 26, 2022

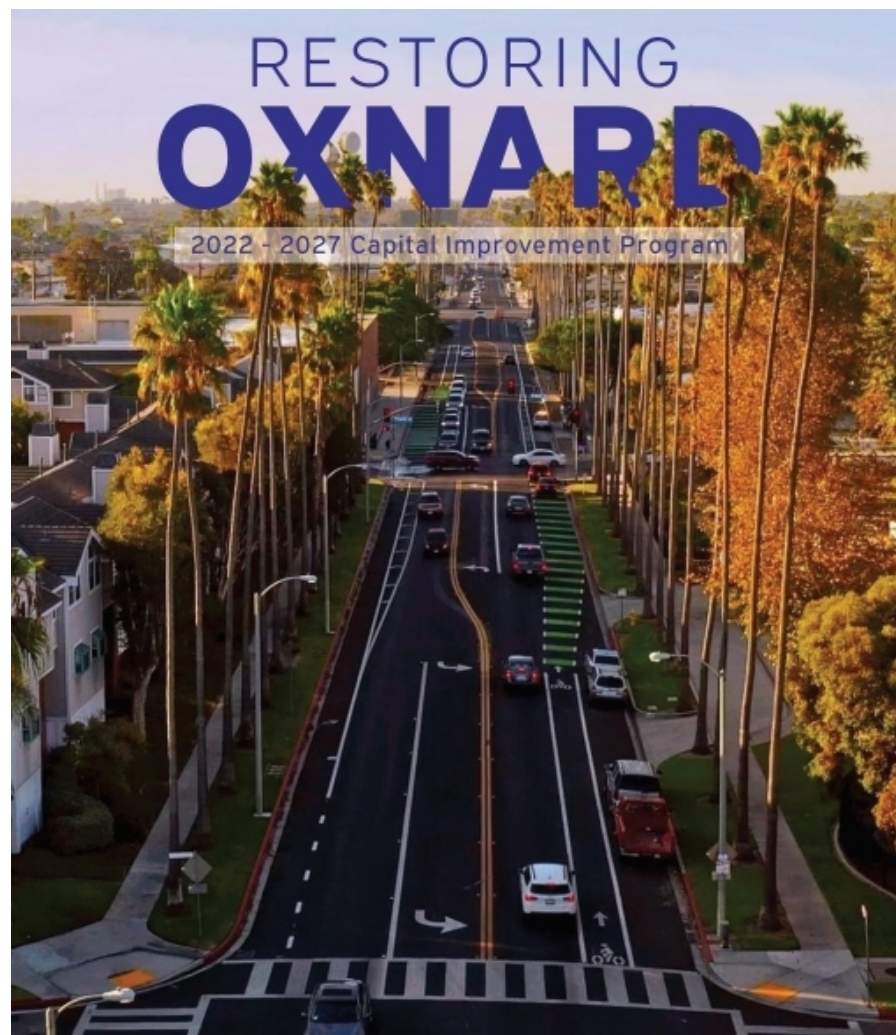
City Council
May 3, 2022

Tatiana B. Arnaout, P.E.
City Engineer

That the City Council approve and authorize:

1. The holding of a public hearing to receive public testimony regarding the proposed 2022-2027 City of Oxnard Five-Year Capital Improvement Program; and
2. The Fiscal Year 2022-23 & 2023-24 projects to be selected from the Proposed 2022-2027 City of Oxnard Five-Year Capital Improvement Program; and
3. Adopt the 2022-2027 City of Oxnard Five-Year Capital Improvement Program.

1. Overview of the Capital Improvement Program (CIP)
2. Summary of CIP Fiscal Years (FY) 2022-27 New Projects
3. Accomplishments of FY 2021-22 CIP



Year 2 | Second of Three Years of
Restoration Investments



CIP is the City's plan - in this case for 5 years - to build or restore our facilities. The CIP does not address maintenance work. Examples of projects include:

- Construction and major alterations of buildings
- Information technology (IT) hardware
- Pipeline replacement
- Playground structure replacement
- Street rehabilitation
- Traffic signal hardware installation
- Wastewater Treatment Plant electrical work

In order for a project to qualify for the CIP, it must meet the following two criteria:

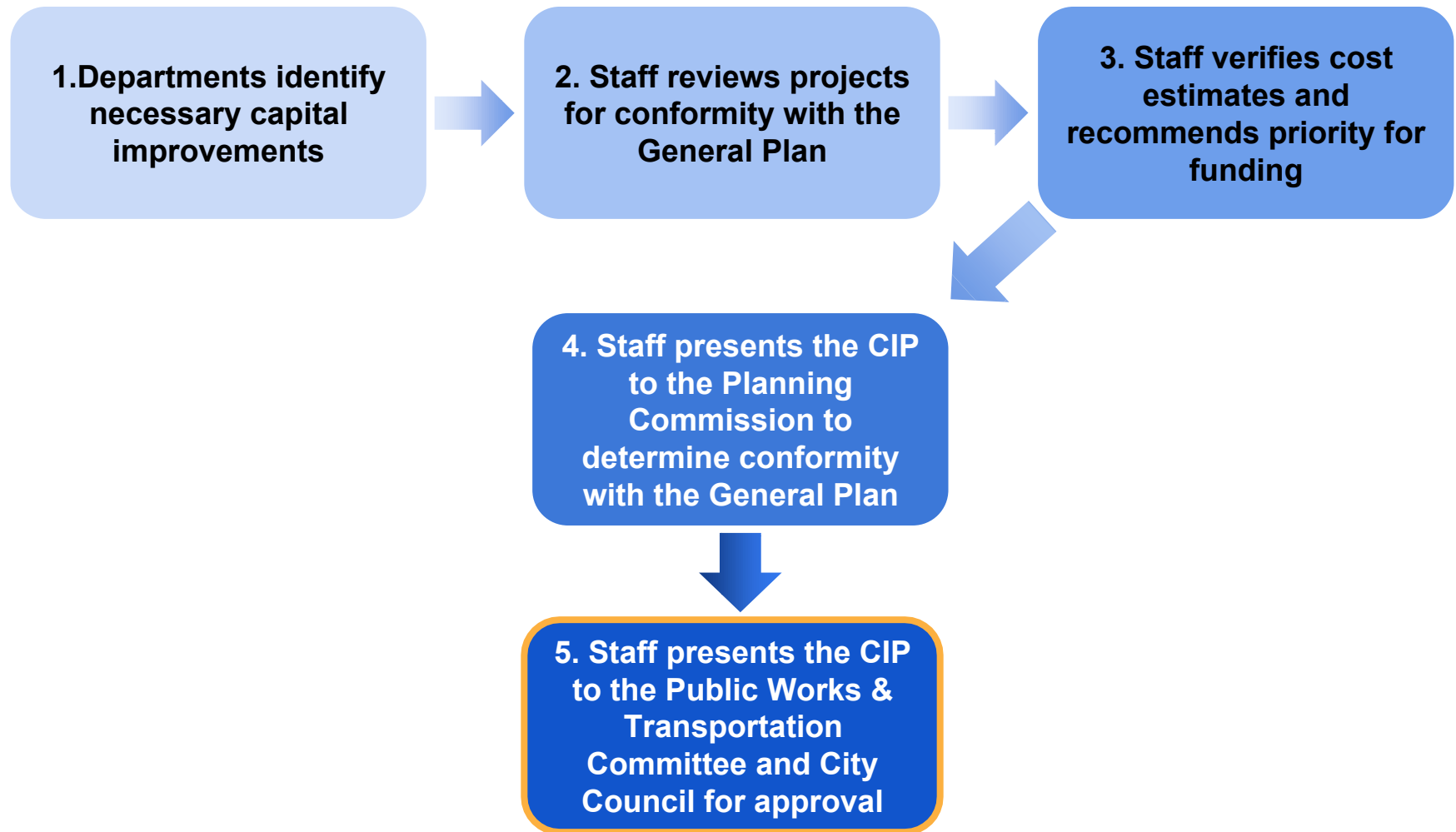
It consists of construction, erection, alteration, renovation, improvement, demolition or repair work involving any City-owned facility

and

It is a project that costs at least **\$100,000**

Note:

Studies and rolling equipment purchases do not qualify under the CIP.



Prioritization

- Priority 1 (Health and Safety)
- Priority 2 (Asset Preservation)
- Priority 3 (New or Expanded Services)

Additional considerations:

- Council Priorities
- Grant Funding
- Urgency
- Staff Capacity

CIP highlights examples of projects by funding source, Council district and fiscal year. All projects are sorted in the appendices by:

- By fiscal year, then funding source
- By fiscal year, then by district
- By fiscal year alone
- By fiscal year, then by priority

Projects are organized into six categories:

- Buildings
- Information technology (IT)
- Parks and open space
- Seawalls
- Transportation and drainage
- Utilities

The task of the Public Works and Transportation Committee is to recommend, and later the Council to determine, which CIP projects should be funded in which fiscal year

Only those projects that the Committee will recommend, and the Council would approve for funding, are those in **fiscal years 2022-23 & 2023-24**

In order to provide better project planning and more efficient use of staff time, funding allocations for a two-year CIP budget are being proposed, rather than previous years when only a single years' allocations were provided

The project sheets include:

1. The project title
2. Location
3. Council district(s) impacted (or a project may have citywide benefit)
4. Project description
5. Purpose and need
6. Fiscal years the project will span
7. Funding source and cost estimate
8. Priority level
9. Name, photo and contact information for the Project Manager

Arterial Street Resurfacing

Transportation &
Drainage


Multiple
Council District(s): Citywide

Project Description:

Preventative maintenance for several arterial streets throughout the City.



Purpose and Need:

This project aims to maintain the City's arterial pavement at the target PCI to prevent premature deterioration.

Project Funding						
Funding Source Name	Previous	FY22-23	FY23-24	FY24-25	FY25-26	FY26-27
Capital Outlay Fund	\$4,950,392					
RMRA Gas Tax (2032 H (2))	\$2,998,787	\$2,665,497	\$4,000,000	\$2,000,000	\$2,000,000	
Street Bond		\$1,900,000	\$2,000,000			
Subtotal:	\$7,949,179	\$4,565,497	\$6,000,000	\$2,000,000	\$2,000,000	
Total Estimated Cost: \$22,514,676						



Responsible Staff Member:
Gianna Pourarion

Title: Project Manager

Phone: (805) 385-7675

Email: gianna.pourarion@oxnard.org

Funding Priority Level

1 2 3

Asset Preservation



Colonia Park Improvements



Wooley Road Protected Bike Lanes



Oxnard Fire Stations Improvements

BUILDINGS



City Hall and Annex Exterior Improvements

Project Title	2022-27 CIP Page
Building Structural Upgrades	Appendix E
City Hall and Annex Exterior Improvements	1
CUPA Improvements at Fleet Services Facility	Appendix E
CUPA Improvements at River Ridge Golf Course	5

BUILDINGS

Project Title	2022-27 CIP Page
Oxnard Fire Stations No. 2, 3, 5	10
River Ridge Golf Course Event Space Upgrades	15
South Oxnard Branch Library HVAC Renovation	21



Oxnard Fire Stations No. 2, 3, 5

PARKS & OPEN SPACE



Project Title	2022-27 CIP Page
Colonia Park Improvements	25
Durley Park Improvements	28
Johnson Creek Park Improvements	30
Olympic Skatepark in Colonia	31
Oxnard Tennis Center Improvements	32
Park Playground Shade Structures	34
River Ridge Playing Fields Improvements	39

TRANSPORTATION & DRAINAGE

Project Title	2022-27 CIP Page
C Street Over-Street Banners	Appendix E
Citywide Sidewalk Repairs	51
Howell Road Lighting and Safety Improvements	59
Pedestrian Bridge Improvements at Channel Islands Bridge	Appendix E
Regional Stormwater Capture Improvements	69
Saviers Road Corridor Improvements	72
Traffic Safety Improvements	Appendix E
Wooley Road Protected Bike Lanes	82



Citywide Sidewalk Repairs

UTILITIES



Project Title	2022-27 CIP Page
Electric Vehicle (EV) Charging Stations	Appendix E
Riverpark Basin Recycled Water Storage Project	94
Upgrade Citywide Radio Infrastructure	95
Wastewater Collection: Gravity Main Improvements	97
Wastewater OWTP: Digester/Cogeneration Improvements	103

UTILITIES

Project Title	2022-27 CIP Page
Wastewater OWTP: Dissolved Air Flotation Improvements	104
Wastewater OWTP: Interstage Pump Station	109
Wastewater OWTP: Outfall Repair	113
Water Production: New Wells - Blending Station 3	133
Water Production: New Wells - Water Division Headquarters	134



Water Production: New Wells - Blending Station 3

- Limited resources across various city departments that affect workflow
- Increase in workload due to Measure E & American Rescue Plan Act (ARPA)
- Construction delays due to material and labor shortages
- Increase in construction costs due to inflation as well as capital funding availability through State and Feds





The following slides will highlight a few completed projects from FY 2021-22 as well as provide the full list of the completed projects.

Project Name: Bryce Canyon/ Fremont Street Resurfacing

Description: Resurfacing streets within the Bryce Canyon North & South and Fremont North Neighborhoods



Project Name: Residential Street Resurfacing (On-Call)

Description: Resurfacing of various Residential Streets throughout the City utilizing the Pavement On-Call Agreement



Project Name: C Street Bicycle Facilities

Description: Installation of Class II Bike Lanes, Shared Roadway Markings (Sharrows), signage, and striping along the C Street corridor



Project Name: Garden City Acres Park

Description: Expanded and refinished basketball courts, hardscape and walking path improvements, and landscaping



Project Name: La Colonia Green Alleys

Description: Alleyway improvements at the Boxing Gym, curb bulbouts, pedestrian crossing enhancements, drought-tolerant landscaping, and stormwater capture



Project Name: Civic Annex 3rd Floor Tenant Improvement

Description: Tenant Improvements (TI) and ADA upgrades of the entire 3rd floor of the Civic Annex building



The following is a list of the projects that were completed:

Category: Buildings	
Project Title	Project Description
Emergency Operations Center (EOC) Renovation	Upgrade of audio and visual equipment within the EOC.
Finance Department Remodel	Remodel third floor of the City Annex building to accommodate new offices, a conference room and upgrade restrooms to meet ADA requirements.
Roof Replacement - Colonia Park Basketball Gym and Youth Center	Replacement of roof for both gym and youth center.
Roof Replacement - PAL South Wing	Replace roof on the south wing of the Police Activities League (PAL) Facility

The following is a list of the projects that were completed:

Category: Parks & Open Space	
Project Title	Project Description
Garden City Acres Park Improvements (Cypress)	Replace lighting infrastructure, upgrade electrical and add community cameras along Oxnard Trail from Entrada Drive to the path adjacent to the Community Garden

Category: Transportation & Drainage	
Project Title	Project Description
Bryce Canyon South Neighborhood Street Resurfacing	Resurface streets within Bryce Canyon South Neighborhood
Doris Avenue Street Resurfacing*	Resurface Doris Avenue from Patterson Road to A Street
Fremont North Neighborhood Street Resurfacing	Resurface streets within the Fremont North Neighborhood
Residential Street Resurfacing in Various Locations	Resurface streets throughout the City with PCI less than 35.
Second Street Resurfacing	Resurface Second Street from Ventura Road to H Street
Teal Club Road Resurfacing*	Resurface Teal Club Road
Wooley Road and Saviers Road Crack Seal*	Crack seal along Wooley Road and Saviers Road

*Anticipated by end of FY

Category: Transportation & Drainage	
Project Title	Project Description
HERO Alleys Reconstruction*	Reconstruct several alleys within the HERO boundaries
Citywide Alleys - Phase IIIA*	Reconstruct several alleys throughout the City with PCI less than 25
La Colonia Green Alleys	Install Class III bicycle boulevards and green infrastructure within two alleys connecting La Colonia neighborhood with Cesar Chavez School, Ramona Elementary School, Colonia Park, and downtown Oxnard.

*Anticipated by end of FY

Category: Utilities	
Project Title	Project Description
Central Trunk Sewer Manhole Replacement - Phase I	Replace 74 deteriorating sewer manholes along the Central Trunk sewer line starting at Fifth Street.
Hueneme Road Recycled Water Pipeline - Phase II*	Install 3 miles of HDPE pipe along Hueneme Road from Olds Road to Wood Road to supply recycled water to agricultural customers.
La Colonia Neighborhood Cast Iron Pipe Replacement*	Replace 60 year old cast iron pipe that has reached the end of its service life with new PVC pipe throughout La Colonia Neighborhood.
Lift Station No. 28 Demolition	Lift Station No. 28 demolition includes removal of structures above grade, site civil work, and security.

*Anticipated by end of FY

- No direct fiscal impact with the adoption of the Proposed 2022-2027 Five-Year CIP
- CIP provides a full fiscal presentation of capital projects planned to be undertaken in next five (5) years, provided funding is available
- Projects that Council identify and approve to be adopted in the CIP for FY 2022-23 will be presented for adoption during the City's budget approval process in June



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.1

DATE: May 3, 2022

TO: City Council

FROM: Phillip Molina, City Treasurer, (805) 385-7808, phillip.molina@oxnard.org

SUBJECT: City Treasurer's Monthly Investment Report for the Period Ending March 31, 2022.

RECOMMENDATION

That the City Council receive and file the report.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/4f51B4ByeEA>

BACKGROUND

The City of Oxnard's March 2022 investment report will be brief this reporting period. This report is submitted to the City Council pursuant to California Government Code section 53646 and the Investment Policy adopted by the City Council.

But first, I wish to give a special thanks to the City staff without whose assistance this report could not be generated. This report reflects the monthly investment information in the similar format that has been presented in previous months along with the amounts in the Bank statements as of March 31, 2022.

The following data is included in this report:

For the month of March, the investment portfolio earned an estimated \$260,790 including LAIF and the Ventura County Investment Pool and \$673,510.75 for the quarter.

Not in this sequence, it is our intention to show the public, the Mayor, and City Council the amounts in each city bank account so that you can see the percentage of available cash to the amount actually invested. You will notice the large buildup of cash in the bank account for the city's general business. This is the result of the anticipated Federal payments, and it is the intent of the Treasurer to greatly increase the amount of cash invested so that once again it approaches 95% by year end. For March we have exceeded our goal.

	March 2022	February 2022	January 2022
amount invested @ tax cost	\$355,298,882.50	\$345,305,482.50	\$335,305,482.50
total available cash to invest	\$370,441,821.52	\$367,166,804.97	\$371,744,075.79
percent invested = efficiency	95.9%	94.0%	90.2%

Efficiency rating

Next, we will show you in a bar chart the amounts invested separated by their maturity date or year. This will allow you to see the ladder or spread of the investments in order to generate a higher return. Third, we explain the cash flows over the last 15 months so you can judge the management of the cash and determine whether there are periods during the year

when more money is available for a short period, overnight investments versus 2-, 3-, 4-, or 5-year maturities. Fourth, we will show you the daily cash position for March 30, 2022 so that you can see how the Treasurer's department reviews our cash balances every day to assure that the city has enough liquidity to cover its obligations.

And next, we make available, upon request, the detailed list of every investment that the city currently holds as of March 31, 2022.

This information is being provided to you using both charts and graphs. The charts are presented so that the Mayor, Council and the public can begin to see the actual amounts in the city's bank accounts at Bank of America. The graphs are created in order to show trends, and relationships that are best understood in that method of presentation. So, while this report is brief in the number of pages, we hope to respond to any question you may have.

STRATEGIC PRIORITIES

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

FINANCIAL IMPACT

The City's total amount invested as of March 31, 2022 at estimated market value was \$342,844,959.10 purchased at a tax cost of \$355,298,882.50. Because the upward movement in the GSE market interest rates produces greater earnings, it also results in an estimated net market loss if we had to sell the older lower yielding instruments in the market today.

In a market (the city's policy requires risk free rate of return) of fixed interest rates any instrument purchased today will decrease in value as the interest rates increases and vice versa. However, with a passive portfolio, one where we intend to hold each instrument until it matures, we can expect to receive the PAR or Face value when we sell back each individual GSE(government sponsored enterprise bond) or CD, so that there would be no market loss.

ITEM	March 2022	February 2022	January 2022
Cost of investments (bank calc.)	\$355,298,882.50	\$345,305,482.50	\$ 335,305,482.50
Par or face value	\$355,185,000.00	\$345,185,000.00	\$ 335,185,000.00

Cash balances on the 31th day of March 2022 in each authorized city bank account with Bank of America totaled \$21,290,828.63 in the four Bank of America accounts.

City Treasurer's bank accounts	March 2022
City's General Fund bank account	\$ 14,822,231.24
Successor Agency bank account	\$ 6,147,889.61
W/C (workers compensation) account	\$ 185,890.44
Parking Citations updated	\$ 134,817.34
TOTAL CASH IN BANK ACCOUNTS	\$ 21,290,828.63

(Per Bank Statements as of March 31, 2022)

The investments have a par value of \$355,185,000. Many were purchased months or years earlier and during the period of controlled GSE interest rates set by the President. To provide greater return we can try to reduce the amount invested with LAIF and spread that over the 2,3,4, and 5- year terms. Recently, LAIF was generating an average return that is now moving upward with the City's average portfolio return. LAIF's March average apportionment rate was .30%, which is less than the current GSE (government sponsored enterprise) rates and less than our average portfolio yield. Reducing the amount in LAIF would produce greater returns, however, doing so would also reduce the liquidity of the portfolio.

ITEM	March 2022	February 2022	January 2022
Cost of investments (bank calc.)	\$355,298,882.50	\$345,305,482.50	\$ 335,305,482.50
Par or face value	\$355,185,000.00	\$345,185,000.00	\$ 335,185,000.00
USBank est Market value	\$342,844,959.10	\$338,257,681.90	\$ 329,814,177.00

The portfolio's average current earning has a yield on a 365-day basis of .88% year to date. So based on the face value of the investments using the average portfolio yield for estimating the amount of interest earnings for the month of March 2022 generates a quarterly estimated earnings of \$673,000 and an estimated annual interest earnings over \$2.1 million:

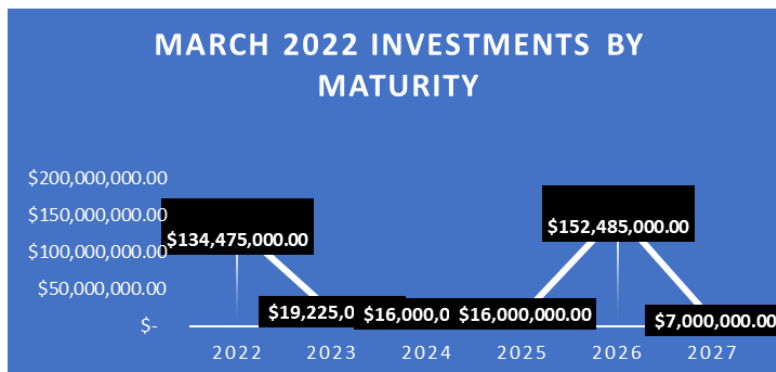
	March 2022	February 2022	January 2022
Est.Earnings this month	\$236,790.00	\$230,123.33	\$206,697.42
Earned interest Yield this month	0.88%	0.80%	0.74%

Now when we look back at the monthly cash flows of the recent years, we found that the month with the highest cash outflow was in 2018 with a one-month outflow of \$37.4 million. And the fact that we had \$75 million invested in LAIF and \$31,000,000 in the Ventura County Investment Pool, which can be drawn down within one day, means there should be no normal condition that would require the Treasurer to sell investments before their maturity. Before we reveal the details, we want to know the level of efficiency in our investment team. But first we look to see how much cash is available, how much cash is invested to determine the efficiency of the team. The goal is to invest 100% of available cash, and we know that for normal operations we should retain a daily balance of \$3-5 million in the bank accounts.

The daily cash report for the last working day in March shows sufficient available cash to satisfy the city's booked short-term obligations though somewhat reduced from prior months.

DAILY CASH POSITION WORKSHEET - GENERAL ACCOUNT		
DATE: 03/30/22		
	CREDIT ESTIMATE	DESCRIPTION
Collected/Closing Avail Bal	16,476,461.90	As of 03/29/22
1 Day Float	98,005.42	As of 03/29/22
Credit Cards-C2G	88,685.07	
Credit Cards-One Point	14,002.83	
Auto Pay	80,128.96	
Investment Coupon	3,125.00	
TOTAL CREDITS	\$16,760,409.18	
	DEBIT ESTIMATE	
Accounts Payable to Clear	300,000.00	
Investment Purchase	1,000,000.00	3130ARAX9 3%
Payroll Taxes	224,114.99	PIT
Payroll Taxes	29,744.94	SDI
Other	743,026.18	BofA Lease
Other	44,578.21	VCLA
Other	319,876.65	Payroll Ded
Other	191,409.06	Matrix
Other	62,549.04	AIMS
TOTAL DEBITS	\$2,915,299.07	
GENERAL ACCOUNT BALANCE	\$13,845,110.11	
SUCCESSOR AGENCY	\$6,147,889.61	
LAIF	\$75,000,000.00	
VCIP	\$31,000,000.00	

The bar chart below, shows the maturities of City's investment portfolio and reflects the fact that as our older instruments are being called early, we find the need to acquire shorter term notes but not unless we can guarantee a rate of .19 % or higher as explained above.



Detail of investments available upon request.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Phillip Molina, City Treasurer

ATTACHMENTS

None



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.2

DATE: May 3, 2022

TO: City Council

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

SUBJECT: Adopt a resolution approving Water Infrastructure Finance and Innovation Act ("WIFIA") Loan from the U.S. Environmental Protection Agency ("EPA"). (10/5/5)

RECOMMENDATION

That the City Council adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.

That the Board of Directors of the City of Oxnard Financing Authority adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.

(Presentation will be live upon Consultant's request.)

BACKGROUND

The Water Infrastructure Finance and Innovation Act ("WIFIA") program was authorized by U.S. Congress in the Water Resources Reform and Development Act of 2014. The purpose of the WIFIA program is to help finance water and wastewater infrastructure projects around the country, and the financing program provides assistance to local agencies for water infrastructure projects that would otherwise have difficulty obtaining financing. The WIFIA program is administered by the U.S. Environmental Protection Agency ("EPA").

The City submitted a letter of interest to the EPA in October 2020 related to its Aquifer Storage and Recovery ("ASR") project. After EPA staff reviewed the letter of interest, the City was invited to submit an application for the WIFIA financing program.

On September 7, 2021, City Council authorized the City Manager to submit the WIFIA application in an amount not to exceed \$49,792,000. The application (along with the \$100,000 application fee) was submitted in the Fall of 2021. The application fee will be credited against the financing costs associated with the WIFIA financing.

The application process includes evaluating both the project and financials of the City. According to the EPA, the average time from application submission to closing is approximately seven months. City staff have been in constant communication with EPA staff discussing both the engineering aspects of the project and the City's ability to repay the obligation from water revenues. Additional discussions have involved the refinement of the financing structure, responding to due diligence information requests and providing input on the legal terms for the financing.

The project proposed to be financed by the WIFIA Loan is a major component of the City's Groundwater Recovery Enhancement and Treatment (GREAT) program, which was initiated to secure reliable water supplies for the community

by focusing on water reuse as the key to a sustainable water supply portfolio. The proposed project encompasses the following components:

1. Upgrades to and expansion of the City's Advanced Water Purification Facility (AWPF) to increase its capacity from the current 6.25 million gallons per day (mgd) to 12.5 mgd. Upgrades will include product water disinfection equipment and improved site security systems and new water storage tanks;
2. Construction of six ASR wells – one demonstration well and five full-scale wells;
3. A 20-inch diameter distribution pipeline to convey recovered groundwater from the ASR wells to three existing water blending stations (numbers 1, 3 & 6); and
4. Mechanical and electrical upgrades to those blending stations, as well as piping modifications and variable frequency drive pump replacements.

The demonstration well improvements are underway and is anticipated to be completed by July 2022 and is not a part of this WIFIA program application. We anticipate the demonstration period may last up to a year before the Division of Drinking Water approves the permit for indirect potable reuse (IPR). After we receive the permit, we plan on continuing to the next stage which is the ASR Completion Project.

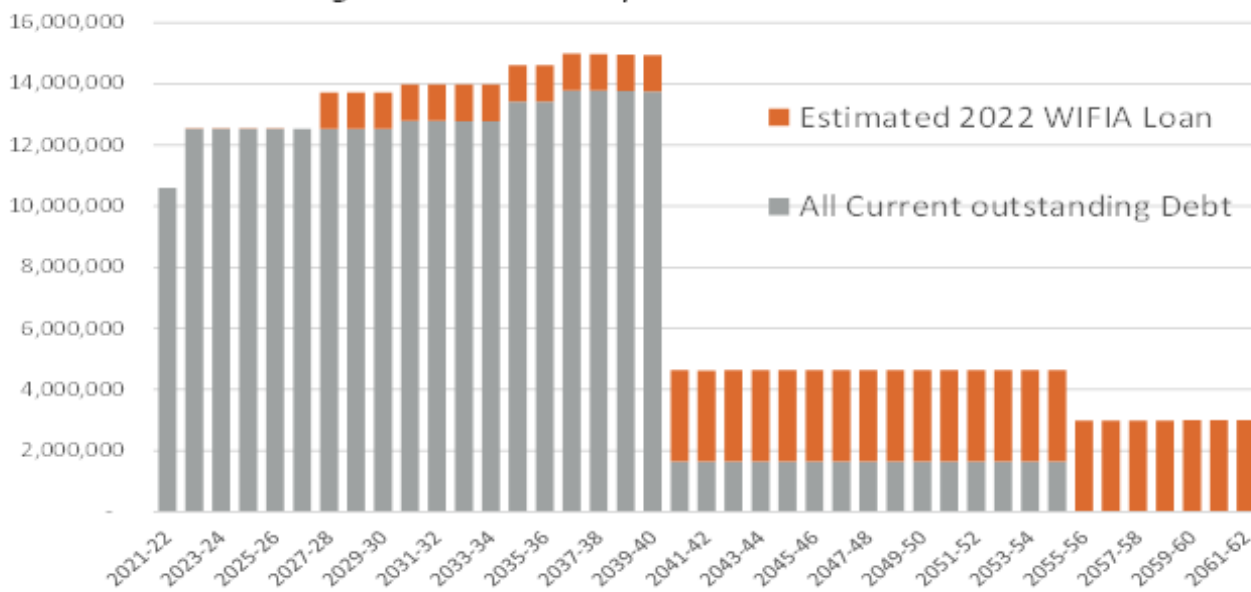
The ASR Completion Project which does fall under WIFIA consists of the design and implementation of enhancements to the City's recycled water system to increase production of advanced treated water at the AWPF, expand ASR by constructing the remaining five full-scale wells, and distribute treated water in order to augment potable water supplies for long-term water supply reliability. Project implementation will allow the City to increase production and use of recycled water treated at the City's existing AWPF and sustainably maximize groundwater pumping from the Oxnard Groundwater Basin. This would occur by supplying AWPF effluent to agricultural users and pumping an equivalent amount of groundwater through pump-back allocations for potable demands. At the same time, ASR and IPR would be expanded to increase potable water supplies and improve blended water quality. ASR allows high quality AWPF-treated water to be injected into the local groundwater aquifer and subsequently extracted for IPR.

The WIFIA financing is unique when compared to the City's existing water obligations.

1. The WIFIA financing provides flexible payment terms (extended final maturity and deferred payments). Repayment is not expected to start for five years after funding or completion of the project, whichever comes first. Once repayment begins, the WIFIA financing will be amortized over a period of 35 years. Accordingly, the City's WIFIA financing is expected to have a final maturity of June 2061 (40 years from closing).
2. The WIFIA financing will have a low, fixed interest rate based on the U.S. Treasury rate for a comparable maturity of the same weighted average life. This enables the City to secure a long-term interest rate lower than available in the capital markets. Initial estimates of the WIFIA financing include saving over \$30,000,000 during the 40-year repayment term (when compared to capital markets financing terms).
3. The WIFIA financing has a flexible amortization structure. The existing Water Fund obligations are generally maturing over the next 18 years. The WIFIA financing will be structured to have most of the payments after the existing obligations are completed. The low interest rate on the WIFIA financing results in a lower overall repayment. This "wrap around" structure minimizes the impact on future water rate increases.
4. The WIFIA financing has flexible prepayment terms. While it is unlikely that the City would refinance the WIFIA financing (given the low long-term interest rate), the City maintains the option to prepay all or a portion of the WIFIA financing on any interest payment date.

City of Oxnard Water Fund

Outstanding Debt and Anticipated WIFIA Loan Amortization



NOTABLE WIFIA FINANCING REQUIREMENTS

WIFIA requires the City to secure matching funds to cover at least 51% of the eligible costs of the project. Eligible costs include the design, engineering, planning, construction costs, as well as construction contingency, costs of issuing the debt, capitalized interest, and reserve fund deposits. The City anticipates securing the matching funds through the issuance of water revenue bonds in fiscal year 2023-24 for the projects.

The City's outstanding water revenue bonds have a requirement that the City maintain each year's net water revenues equivalent to 100% of annual debt service and maintain a cash balance in the Water Fund equivalent to 25% of maximum annual debt service on all outstanding debt. The City has pledged to reduce expenses and/or raise water rates as needed to meet these covenants. The EPA has indicated that it will require the City to maintain net revenues equivalent to 110% of annual debt service (increasing the existing 100% requirement). Since the WIFIA financing is on parity with the outstanding Water obligations, this new covenant will impact future parity water obligations.

Staff believes that this requirement will not cause any debt covenant compliance concerns for the City in the immediate future given current coverage of 167% (fiscal year 2020-21).

Other than the updated coverage requirement above, the WIFIA financing will have similar legal covenants, documents, and requirements as the City's outstanding water bonds.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

This WIFIA financing is an obligation of the Water Fund and there is no financial impact to the City's General Fund. The WIFIA financing will require an annual WIFIA administration fee, payable to the EPA. This fee is expected to range from \$8,000 to \$22,000 per year and will be paid along with the interest and principal payments. The WIFIA financing is expected to commence interest-only payments in fiscal year 2027-28 (approximately \$1,500,000/year). The repayment of principal is anticipated to begin in fiscal year 2040-41 (final maturity 2060-61), with estimated annual payments of approximately \$3,340,000/year.

ESTIMATED TIMING

If the City Council and Board of Directors approve the resolutions at this meeting, staff expects to close on the WIFIA financing in mid-May 2022.

GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the WIFIA financing in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by the Municipal Advisor.

Principal Amount. The Municipal Advisor has informed the City that, based on the City's purchase agreements, financing plan, and current market conditions, its good faith estimate of the aggregate principal amount of the WIFIA financing is \$48,500,000 (the "Estimated Principal Amount").

True Interest Cost of the WIFIA financing. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the WIFIA financing, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the WIFIA financing is 3.00%.

Finance Charge of the WIFIA financing. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the WIFIA financing, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the WIFIA financing, which means the sum of all fees and charges paid to third parties (or costs associated with the WIFIA financing), is \$450,000.

Amount of Proceeds to be Received. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the WIFIA financing, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City for the WIFIA financing is \$44,712,356.

Total Payment Amount. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the WIFIA financing, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the WIFIA financing is \$90,309,215, which excludes any reserves or capitalized interest paid or funded with proceeds of the WIFIA financing (which may offset such total payment amount).

The foregoing estimates constitute good faith estimates only as of March 23, 2022, and are based on market conditions prevailing at the time of preparation of such estimates. The actual principal amount of the WIFIA financing, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual closing date of the WIFIA financing being different than the date assumed for purposes of such estimates, (b) the actual principal amount of WIFIA financing being different from the Estimated Principal Amount, (c) the actual amortization of the WIFIA financing being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of close of the WIFIA financing being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the City's financing plan, or a combination of such factors. The actual closing date of the WIFIA financing and the actual principal amount of the WIFIA financing will be determined by the City based on the timing of the need for proceeds of the WIFIA financing and other factors. The actual interest rates borne by the WIFIA financing will depend on market interest rates at the time of sale thereof. The actual amortization of the WIFIA financing will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic, national, international and other factors beyond the control of the City or the Municipal Advisor.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on April 12, 2022, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: NHA Advisors

ATTACHMENTS

1. Oxnard 2022 WIFIA Loan - Resolution of the Authority-c1
2. Oxnard 2022 WIFIA Loan - Resolution of the City-c1
3. Oxnard 2022 WIFIA Loan - Installment Purchase Agreement-c1
4. Oxnard 2022 WIFIA Loan - Indenture of Trust-c1
5. Oxnard_WIFIA_Loan_Agreement.CCAgenda.050322
6. Oxnard 2022 WIFIA Loan - Term Sheet.CCAgenda.050322
7. Estimated WIFIA Loan Amortization Schedule
8. 5.3.22 CC - Presentation on WIFIA Financing

BOARD OF DIRECTORS OF
THE CITY OF OXNARD FINANCING AUTHORITY

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF CITY OF OXNARD FINANCING
AUTHORITY APPROVING AN INSTALLMENT PURCHASE AGREEMENT, INDENTURE
OF TRUST, A WIFIA LOAN AGREEMENT, AND A WIFIA LOAN TERM SHEET WITH
RESPECT TO THE ISSUANCE OF BONDS IN AN AGGREGATE PRINCIPAL AMOUNT
NOT TO EXCEED \$55,000,000, APPOINTING A TRUSTEE AND OTHER MATTERS
PERTAINING THERETO

WHEREAS, City of Oxnard Financing Authority (the “Authority”) was established for the purpose of assisting the City of Oxnard (the “City”) with financing public capital improvements; and

WHEREAS, the City Council has considered financing the Aquifer Storage Recovery (ASR) Project consists of the following components: (i) expansion of the City’s Advanced Water Purification Facility capacity, (ii) construction of additional aquifer storage wells, (iii) construction of a distribution pipeline to convey recovered groundwater from the ASR wells to three existing Blending Stations, and (iv) upgrades to two of the City’s Blending Stations including mechanical and electrical upgrades as well as piping modifications and pump replacements in an amount of \$48,000,000 (the “2022 Project”); and

WHEREAS, the City has determined to finance the 2022 Project through the issuance by the Authority of an aggregate principal amount of bonds in an amount not to exceed \$55,000,000 (the “2022 Bonds”), pursuant to an Indenture of Trust to be entered into among the City, the Authority and Computershare Trust Company, N.A., as trustee (the “Trustee”); and

WHEREAS, under the terms of an Installment Purchase Agreement between the City and the Authority (the “Installment Purchase Agreement”) the Authority will sell the 2022 Project to the City and the City will agree to make installment payments to the Authority; and

WHEREAS, there has been presented to the City Council a WIFIA Loan Term Sheet (the “Term Sheet”) together with a form of WIFIA Loan Agreement (the “WIFIA Loan Agreement”) whereby the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “US EPA”) will purchase the 2022 Bonds; and

WHEREAS, Section 5852.1 of the California Government Code requires that the Board obtain from an underwriter, financial advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the 2022 Bonds, good faith estimates of (a) the true interest cost of the 2022 Bonds, (b) the sum of all fees and charges paid to third parties with respect to the 2022 Bonds, (c) the amount of proceeds of the 2022 Bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the 2022 Bonds, and (d) the sum total of all debt service payments on the 2022 Bonds calculated to the final maturity of the 2022 Bonds, plus the fees and charges paid to third parties not paid with the proceeds of the 2022 Bonds;

WHEREAS, in compliance with Section 5852.1 of the California Government Code, the Board has obtained from NHA Advisors, Inc., the Authority's municipal advisor (the "Municipal Advisor") the required good faith estimates and such estimates are disclosed in the report presented to the Board of Directors; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the issuance of the 2022 Bonds hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such issuance for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY the Board of Directors of the City of Oxnard Financing Authority as follows:

Section 1. Recitals True and Correct. The foregoing recitals are true and correct and the Board of Directors so finds and determines.

Section 2. Funding 2022 Project; Approval of WIFIA Loan Term Sheet. The Board of Directors hereby approves the issuance of the 2022 Bonds for the purposes of raising new money for the 2022 Project with the proceeds of the 2022 Bonds on substantially the terms and conditions detailed in the documents presented at this meeting. The terms of the 2022 Bonds and the manner of determining the interest rate on the 2022 Bonds shall be as described in the Term Sheet, which is hereby approved, and each Authorized Representative (as defined below) is authorized and directed to execute, acknowledge and deliver said Term Sheet on behalf of the Authority in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Approval of Installment Purchase Agreement. The agreement entitled "Installment Purchase Agreement (Series 2022)" to be entered into by and between the City and the Authority, which provides generally for (i) the acquisition of the 2022 Project by the Authority, (ii) the purchase by the City from the Authority of the 2022 Project, and (iii) the payment by the City to the Authority of Installment Payments in amounts which will be sufficient to pay the principal of and interest owing on the 2022 Bonds until the 2022 Bonds are fully paid, is hereby approved and the Chair, Vice-Chair, the Executive Director, Chief Financial Officer and Secretary of the Board of Directors (each an "Authorized Representative") are, and each such officer is, authorized and directed to execute, acknowledge and deliver said agreement on behalf of the Authority in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. Approval of Indenture of Trust. The agreement entitled "Indenture of Trust" to be entered into by and among the City, the Authority and the Trustee named therein, is hereby approved and any Authorized Representative is authorized and directed to execute, acknowledge and deliver said agreement on behalf of the Authority in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Approval of Loan Agreement and Conditions of Approval. The form of WIFIA Loan Agreement presented at this meeting is hereby approved and any Authorized Representative is hereby authorized to accept, for and in the name of the Authority, such WIFIA Loan Agreement in substantially the form hereby approved with such changes therein as the Authorized Representative executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided that the WIFIA Loan Agreement and the provisions of the Installment Purchase Agreement, shall substantially conform to the provisions of the Term Sheet.

Section 6. Appointment of Trustee. Computershare Trust Company, N.A., is appointed as Trustee pursuant to the Indenture of Trust to take any and all action provided therein to be taken by the Trustee.

Section 7. Forms of Bonds. The forms of the 2022 Bonds set forth in Indenture of Trust are approved, and the Trustee is authorized to authenticate the 2022 Bonds and to apply, deposit, invest, administer and utilize the proceeds. Any Authorized Representative is authorized to determine the final aggregate principal amount of the 2022 Bonds to be purchased by the US EPA and the final maturity date of the 2022 Bonds based on the determination of the Executive Director or Chief Financial Officer of the amount needed to finance the 2022 Project, achieve the City's financing objectives, and to pay Costs of Issuance, as defined and specified in the Indenture of Trust.

Section 8. Other Acts. The officers of the Authority are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the issuance of the 2022 Bonds, the financing of the 2022 Project or otherwise to effectuate the purpose of this Resolution, including obtaining bond insurance or other guarantee of the 2022 Bonds, and such actions previously taken by such officers are hereby ratified and confirmed.

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Section 9. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Chairman

ATTEST:

Rose Chaparro, Secretary

APPROVED AS TO FORM:

Stephen Fischer, Authority Counsel

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss.
CITY OF OXNARD)

I, Rose Chapparo, Secretary of the City of Oxnard Financing Authority, do hereby certify the attached to be a true and correct copy of City of Oxnard Financing Authority Resolution No. _____, adopted at the Oxnard City Council Meeting held on _____, 2022. The original resolution is on file in the City Clerk's Office at 300 W. Third Street, Oxnard, California 93030.

DATED this ____ day of _____, 2022.

Rose Chapparo
Secretary

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING AN
INSTALLMENT PURCHASE AGREEMENT, INDENTURE OF TRUST, A WIFIA LOAN
AGREEMENT, AND A WIFIA LOAN TERM SHEET WITH RESPECT TO THE ISSUANCE
BY THE CITY OF OXNARD FINANCING AUTHORITY OF BONDS IN AN AGGREGATE
PRINCIPAL AMOUNT NOT TO EXCEED \$55,000,000, AND OTHER MATTERS
PERTAINING THERETO

WHEREAS, City of Oxnard Financing Authority (the “Authority”) was established for the purpose of assisting the City of Oxnard (the “City”) with financing public capital improvements; and

WHEREAS, The Aquifer Storage Recovery (ASR) Project consists of the following components: (i) expansion of the City’s Advanced Water Purification Facility capacity, (ii) construction of additional aquifer storage wells, (iii) construction of a distribution pipeline to convey recovered groundwater from the ASR wells to three existing Blending Stations, and (iv) upgrades to two of the City’s Blending Stations including mechanical and electrical upgrades as well as piping modifications and pump replacements in an amount of \$48,000,000 (the “2022 Project”); and

WHEREAS, the City has determined to finance the 2022 Project through the issuance by the Authority of an aggregate principal amount of bonds in an amount not to exceed \$55,000,000 (the “2022 Bonds”), pursuant to an Indenture of Trust to be entered into among the City, the Authority and Computershare Trust Company, N.A., as trustee (the “Trustee”); and

WHEREAS, under the terms of an Installment Purchase Agreement between the City and the Authority (the “Installment Purchase Agreement”) the Authority will sell the 2022 Project to the City and the City will agree to make installment payments to the Authority; and

WHEREAS, there has been presented to the City Council a WIFIA Loan Term Sheet (the “Term Sheet”) together with a form of WIFIA Loan Agreement (the “WIFIA Loan Agreement”) whereby the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency will purchase the 2022 Bonds; and

WHEREAS, Section 5852.1 of the California Government Code requires that the Board obtain from an underwriter, financial advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the 2022 Bonds, good faith estimates of (a) the true interest cost of the 2022 Bonds, (b) the sum of all fees and charges paid to third parties with respect to the 2022 Bonds, (c) the amount of proceeds of the 2022 Bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the 2022 Bonds, and (d) the sum total of all debt service payments on the 2022 Bonds calculated to the final maturity of the 2022 Bonds, plus the fees and charges paid to third parties not paid with the proceeds of the 2022 Bonds;

WHEREAS, in compliance with Section 5852.1 of the California Government Code, the Council has obtained from NHA Advisors, Inc., the City's municipal advisor (the "Municipal Advisor") the required good faith estimates and such estimates are disclosed in the report presented to the City Council; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the issuance of the 2022 Bonds hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such issuance for the purpose, in the manner and upon the terms herein provided;

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

Section 1. Recitals True and Correct. The foregoing recitals are true and correct and the City Council so finds and determines.

Section 2. Funding 2022 Project; Approval of WIFIA Loan Term Sheet. The City Council hereby approves the issuance of the 2022 Bonds by the Authority for the purposes of raising new money for the 2022 Project with the proceeds of the 2022 Bonds on substantially the terms and conditions detailed in the documents presented at this meeting. The terms of the 2022 Bonds and the manner of determining the interest rate on the 2022 Bonds shall be as described in the Term Sheet, which is hereby approved, and each Authorized Representative (as defined below) is authorized and directed to execute, acknowledge and deliver said Term Sheet on behalf of the City in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Approval of Installment Purchase Agreement. The agreement entitled "Installment Purchase Agreement (Series 2022)" to be entered into by and between the City and the Authority, which provides generally for (i) the acquisition of the 2022 Project by the Authority, (ii) the purchase by the City from the Authority of the 2022 Project, and (iii) the payment by the City to the Authority of Installment Payments in amounts which will be sufficient to pay the principal of and interest owing on the 2022 Bonds until the 2022 Bonds are fully paid, is hereby approved and the Mayor, Mayor Pro Tem, the City Manager, Chief Finance Officer and City Clerk (each an "Authorized Representative") are, and each such officer is, authorized and directed to execute, acknowledge and deliver said agreement on behalf of the City in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. Approval of Indenture of Trust. The agreement entitled "Indenture of Trust" to be entered into by and among the City, the Authority and the Trustee named therein, is hereby approved and any Authorized Representative is authorized and directed to execute, acknowledge and deliver said agreement on behalf of the City in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Approval of Loan Agreement and Conditions of Approval. The form of WIFIA Loan Agreement presented at this meeting is hereby approved and any Authorized Representative is hereby authorized to accept, for and in the name of the City, such WIFIA Loan Agreement in substantially the form hereby approved with such changes therein as the Authorized Representative executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided that the WIFIA Loan Agreement and the provisions of the Installment Purchase Agreement, shall substantially conform to the provisions of the Term Sheet.

Section 6. Other Acts and Payment of Costs. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the issuance of the 2022 Bonds, the financing of the 2022 Project or otherwise to effectuate the purpose of this Resolution, including obtaining bond insurance or other guarantee of the 2022 Bonds, and such actions previously taken by such officers are hereby ratified and confirmed. The City Council hereby authorizes and approves the payment of professionals to provide services in connection with the issuance of the Bonds and the WIFIA Loan, namely NHA Advisors, LLC and Best Best & Krieger LLP.

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Section 7. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen Fischer, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss.
CITY OF OXNARD)

I, Rose Chapparo, City Clerk of the City of Oxnard, do hereby certify the attached to be a true and correct copy of City of Oxnard, City Council Resolution No. _____, adopted at the Oxnard City Council Meeting held on _____, 2022. The original resolution is on file in the City Clerk's Office at 300 W. Third Street, Oxnard, California 93030.

DATED this ____ day of _____, 2022.

Rose Chapparo
City Clerk

INSTALLMENT PURCHASE AGREEMENT

by and between

**CITY OF OXNARD,
as Purchaser**

and

**CITY OF OXNARD FINANCING AUTHORITY,
as Seller**

Dated as of _____, 2022

Relating to

**\$ _____
CITY OF OXNARD FINANCING AUTHORITY
WATER REVENUE BONDS
SERIES 2022A (WIFIA LOAN)**

INSTALLMENT PURCHASE AGREEMENT

This INSTALLMENT PURCHASE AGREEMENT, made and entered into as of _____, 2022, by and between the CITY OF OXNARD, a general law city and a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the “City”), and the CITY OF OXNARD FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under and by virtue of the laws of the State of California (the “Authority”):

WITNESSETH:

WHEREAS, the City proposes to finance certain improvements to the City’s water system, as more particularly described herein (collectively, the “2022 Project”); and

WHEREAS, the City desires to finance the Aquifer Storage Recovery (ASR) Project consists consisting of the following components: (i) expansion of the City’s Advanced Water Purification Facility capacity, (ii) construction of additional aquifer storage wells, (iii) construction of a distribution pipeline to convey recovered groundwater from the ASR wells to three existing Blending Stations, and (iv) upgrades to two of the city’s Blending Stations including mechanical and electrical upgrades as well as piping modifications and pump replacements (collectively, the “2022 Project”); and

WHEREAS, the City and the Authority have duly authorized the execution of this Agreement; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. All capitalized terms used herein and not defined herein shall have the meanings ascribed thereto in the Indenture.

“Acquisition and Construction” means, with respect to the 2022 Project, the acquisition, construction, improvement, equipping, renovation, remodeling or reconstruction thereof.

“Acquisition and Construction Costs” means, with respect to any of the 2022 Project, all costs of the Acquisition and Construction thereof which are paid from moneys on deposit in the Acquisition and Construction Fund, including but not limited to:

(a) all costs required to be paid to any person under the terms of any agreement for or relating to the Acquisition and Construction of the 2022 Project;

(b) obligations incurred for labor and materials in connection with the Acquisition and Construction of the 2022 Project;

(c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the Acquisition and Construction of the 2022 Project;

(d) all costs of engineering and architectural services, including the actual out-of-pocket costs for test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales commissions, and for supervising construction, as well as for the performance of all other duties required by or consequent to the proper Acquisition and Construction of the 2022 Project;

(e) any sums required to reimburse the Authority or the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the Acquisition and Construction of the 2022 Project;

(f) all financing costs incurred in connection with the Acquisition and Construction of the 2022 Project, including but not limited to other costs incurred in connection with this Agreement and the financing of the 2022 Project; and

(g) the interest components of the Installment Payments during the period of Acquisition and Construction of the 2022 Project, to the extent not paid from the proceeds of the Authority Bonds deposited in the Interest Account pursuant to the Indenture.

“Additional Obligations” means Obligations other than this Installment Purchase Agreement, which are either currently outstanding or issued pursuant to Section 5.03 hereof.

“Agreement” or “Installment Purchase Agreement” means this Installment Purchase Agreement, dated as of _____, 2022, by and between the City and the Authority, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

“Authority” means City of Oxnard Financing Authority, a joint exercise of powers agency duly organized and existing under and by virtue of the laws of the State of California.

“Authority Bonds” means the Series 2022 Bonds.

“Bond Counsel” means (a) Best Best & Krieger LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations of states and their political subdivisions and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Build America Bonds” means the bonds with which the Authority has irrevocably elected (i) to apply the provisions of Section 54AA(d) of the Code and intends that the bonds be treated as “build America bonds” within the meaning of Section 54AA(d) of the Code and (ii) to apply the provisions of Section 54AA(g) of the Code and intends that the bonds be treated as “qualified bonds” within the meaning of Section 54AA(g) of the Code, such that the bonds will bear interest that is not excluded from federal income

taxation and, as provided for in Section 54AA(b) and 6431 of the Code, the bonds are eligible to receive Interest Subsidy Payments and for which the Authority or the Authority's authorized designated recipient has filed the requires Internal Revenue Service Forms.

“City” means the City of Oxnard, a general law city and a municipal corporation duly organized and existing under and by virtue of the laws of the State of California.

“City Bonds” means all revenue bonds or notes of the City authorized, executed, issued, and delivered under and pursuant to the laws of the State of California, the payments of which are made from the Net Water System Revenues and which are on a parity with the Installment Payments. The term “City Bonds” includes, but is not limited to, obligations in the form of bonds, notes, bond anticipation notes, and commercial paper.

“Contract Payments” means Installment Payments due and payable under this Installment Purchase Agreement, installment or lease payments of interest and principal or, if there are no separate payments of interest and principal, the installment or lease payments, scheduled to be paid by the City under and pursuant to the Contracts.

“Contracts” means this Installment Purchase Agreement and all contracts or leases of the City authorized and executed by the City under and pursuant to the laws of the State of California, installment or lease payments under which are payable from the Net Water System Revenues on a parity with this Installment Purchase Agreement.

“Debt Service” means, for any Fiscal Year or other period, the sum of (i) the interest payable during such Fiscal Year or 12-month period on all outstanding City Bonds, assuming that all outstanding serial City Bonds are retired as scheduled and that all outstanding term City Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any City Bonds), (2) that portion of the principal amount of all outstanding serial City Bonds maturing on any principal payment date which falls in such Fiscal Year or 12-month period, (3) that portion of the principal amount of all outstanding term City Bonds required to be redeemed or paid on any redemption date which falls in such Fiscal Year or 12-month period, and (4) that portion of the Contract Payments required to be made in such Fiscal Year or 12-month period (except to the extent such interest is capitalized). For purposes of calculating Debt Service, the following assumptions shall be used:

provided that, as to any such City Bonds or Contract Payments bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall be the rate set forth in the applicable Qualified Swap, and if there is no Qualified Swap in effect with respect thereto, the greatest of (a) the actual interest rate on such City Bonds or Contract Payments on the date of calculation, or if the indebtedness is not yet outstanding, the initial interest rate (if established and binding), (b) if the City Bonds or Contracts have been outstanding for at least twelve months, the average rate over the twelve calendar months immediately preceding the date of calculation, and (c) (i) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Code, the most recently published Bond Buyer “Revenue Bond Index” (or comparable index if no longer published) plus 50 basis points, or (ii) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus 50 basis points; provided, however, that for purposes of any portion of Sections 5.03 (Additional Obligations) and 6.10 (Amount of Rates and Charges) of the Installment Purchase Agreement, measuring actual debt service coverage during a test period, variable rate indebtedness shall be deemed to bear interest at the actual rate per annum applicable during the test period; and

provided further that, if any series or issue of such City Bonds or Contract Payments have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year,

Debt Service shall be determined for the Fiscal Year or other 12-month period of determination as if the principal of and interest on such series or issue of such City Bonds or Contract Payments were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such City Bonds or Contract Payments or portions thereof bearing no interest but that are sold at a discount and which discount accretes with respect to such City Bonds or Contract Payments or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that, the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the City Bonds and Contracts for which such debt service reserve fund was established and in each preceding year until such amount is exhausted; and

provided further that, Debt Service shall not include interest that is paid from investment earnings on amounts on deposit in the applicable Reserve Account and transferred to the Debt Service Fund; and

provided further that, for purposes of any portion of Sections 5.03 (Additional Obligations) and 6.10 (Amount of Rates and Charges) of the Installment Purchase Agreement measuring actual debt service coverage during a test period, Debt Service with respect to all City Bonds, Contract Payments, and bonds issued by the Authority secured by such Contract Payments for which the City or the Authority is entitled to receive Interest Subsidy Payments or any similar payments from the United States Department of the Treasury shall be determined net of all such Interest Subsidy Payments or similar payments from the United States Department of the Treasury received or scheduled to be received by the City or the Authority during such test period.

“Debt Service Payment Commencement Date” means the earlier to occur of (a) December 1, 2027; or (b) the Series 2022 Installment Payment Date falling closest to, but not later than, the fifth anniversary of the first disbursement date of the WIFIA Loan (but in any event no later than five (5) years after the Substantial Completion Date of the 2022 Project).

“Default Rate” has the meaning ascribed to such term in Part C of Schedule I (WIFIA Loan Specific Terms) of the WIFIA Loan Agreement.

“Event of Default” means an event described in Section 8.01.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the last day of June of the next succeeding year, or any other twelve-month period selected and designated as the official Fiscal Year of the City.

“Indenture” means the Indenture of Trust, dated as of _____, 2022, by and among the City, the Authority and the Trustee, as originally executed and as it may from time to time be amended or supplemented in accordance with its terms.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants appointed and paid by the Authority, and who, or each of whom:

- (a) is in fact independent and not under domination of the Authority or the City;

(b) does not have any substantial interest, direct or indirect, in the Authority or the City; and

(c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

“Independent Financial Consultant” means a financial consultant or firm of such consultants appointed by the City, and who, or each of whom:

(1) is in fact independent and not under domination of the City or the Authority;

(2) does not have any substantial interest, direct or indirect, with the City or the Authority; and

(3) is not connected with the City or the Authority as an officer or employee thereof, but who may be regularly retained to make reports thereto.

“Installment Payment Date;” “Series 2022 Installment Payment Date”

The term “Installment Payment Date” means each date on which Installment Payments are scheduled to be paid by the City under and pursuant to any Contracts. The term “Series 2022 Installment Payment Date” means the fifth day prior to each Interest Payment Date, or if said date is not a Business Day, then the preceding Business Day.

“Installment Payments;” “Series 2022 Installment Payments;” “Interest Component of Series 2022 Installment Payments;” “Principal Component of Series 2022 Installment Payments”

The term “Installment Payments” means the installment payments of interest and principal scheduled to be paid by the City under and pursuant to the Contracts. The term “Series 2022 Installment Payments” means the Installment Payments scheduled to be paid by the City under and pursuant hereto, plus interest on such draws as set forth in the Indenture. The term “Interest Component of Series 2022 Installment Payment”, with respect to any Series 2022 Installment Payment, means the “Amount Attributable to Interest” in respect of such payment as reflected in Exhibit A hereto. The term “Principal Component of Series 2022 Installment Payment”, with respect to any Series 2022 Installment Payment, means the “Amount Attributable to Principal” in respect of such payment as reflected in Exhibit A hereto.

“Interest Payment Date” means June 1 and December 1 in each year, as applicable, beginning the Debt Service Payment Commencement Date, and continuing so long as any Authority Bonds remain Outstanding.

“Interest Subsidy Payment” means with respect to Build America Bonds, each payment received by the Authority or the Authority’s designated recipient directly from the United States Department of the Treasury in an amount equal to 35% of the corresponding interest payable on such Build America Bonds of the Water System, as provided for in Sections 54AA(b) and 6431 of the Code.

“Maintenance and Operation Costs” means (1) costs spent or incurred for maintenance and operation of the Water System calculated in accordance with generally accepted accounting principles applicable to governmental agencies, including, but not limited to, the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City that are charged directly or apportioned to the

Water System, including, but not limited, to salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges (other than debt service payments) required to be paid by it to comply with the terms of the City Bonds, or any other Contract, other than Debt Service, or of any resolution or indenture authorizing the issuance of any City Bonds or Contracts, and (2) all payments under any contract for the purchase of water; but excluding in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar nature.

“Maximum Annual Debt Service” means, at any point in time, with respect to City Bonds and Contracts then outstanding, the largest amount of Debt Service on the City Bonds and Contracts in the then current or any future Fiscal Year.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including reasonable attorneys’ fees) incurred in the collection of such proceeds.

“Net Water System Revenues” means (i) for any Fiscal Year, the Water System Revenues for such Fiscal Year less the Maintenance and Operation Costs for such Fiscal Year, or (ii) in applying the provisions of the Installment and Purchase Agreement with respect to Additional Obligations only, the Water System Revenues for the selected 12-month period less the Maintenance and Operation Costs for the same 12-month period.

“Obligations” means City Bonds and Contract Payments.

“Purchase Price” means the principal amount plus interest thereon owed by the City to the Authority under the terms hereof as provided in Section 4.01.

“Qualified Swap” means any financial arrangement (i) that is entered into by the City with an entity that is a Qualified Swap Provider at the time the arrangement is entered into; (ii) that provides that the City shall pay to such entity an amount based on the interest accruing at a fixed rate on an amount equal to the principal amount of the Authority Bonds Outstanding, and that such entity shall pay to the City an amount based on the interest accruing on such principal amount at a variable rate of interest computed according to a formula set forth in such arrangement (which need not be the same as the actual rate of interest borne by the Authority Bonds) or that one shall pay to the other any net amount due under such arrangement; and (iii) that has been designated in writing to the Trustee by the City and the Authority as a Qualified Swap with respect to the Authority Bonds.

“Qualified Swap Provider” means a financial institution whose senior long term debt obligations or an insurance provider whose claims-paying ability, or whose obligations under a Qualified Swap are guaranteed by a financial institution whose senior long term debt obligations or by an insurance provider whose claims-paying ability, are rated (at the time the subject Qualified Swap is entered into) not lower than Aa3 by Moody’s and AA- by S&P, or the equivalent thereof by any successor thereto.

“Revenue Fund” means the fund by that name established pursuant to Section 5.02 hereof.

“Series 2022 Bonds” means the \$ _____ aggregate principal amount of City Of Oxnard Financing Authority Water Revenue Bonds Series 2022A.

“Substantial Completion” means, with respect to the 2022 Project, the stage at which the 2022 Project is able to perform the functions for which the 2022 Project is designed.

“Substantial Completion Date” means the date on which the City certifies to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender and notice to the WIFIA Lender in accordance with Part E of Schedule V (Reporting Requirements) of the WIFIA Loan Agreement, that Substantial Completion has occurred.

“Trustee” means Computershare Trust Company, N.A., acting in its capacity as Trustee under and pursuant to the Indenture, and its successors and assigns.

“Water Service” means the water distribution service provided by the City.

“Water System” means the whole and each and every part of the waterworks system serving the City, whether owned or operated by the City or another party, including the portion thereof existing on the date hereof, and including all additions, betterments, extensions, and improvements to such water system or any part thereof hereafter acquired or constructed.

“Water System Revenues” means all income, rents, rates, fees, charges, and other moneys derived from the ownership of or operation of the Water System, including, without limiting the generality of the foregoing, (1) all in lieu charges and groundwater augmentation charges (including investment earnings thereon) collected by or on behalf of the City, (2) all income, rents, rates, fees, charges, business interruption insurance proceeds, or other moneys derived by the City from the sale, furnishing, and supplying of the water, drainage or other services, facilities, and commodities sold, furnished, or supplied through the facilities of or in the conduct or operation of the business of the Water System, and (3) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, proceeds, or other moneys, including City reserves; but excluding in all cases (a) customers’ deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City, (b) proceeds of taxes or benefit assessments restricted by law to be used by the City to pay amounts due on bonds or other obligations hereafter incurred, and (c) connection fees and charges.

“WIFIA Interest Rate” has the meaning ascribed to such term in Part C of Schedule I (WIFIA Loan Specific Term) of the WIFIA Loan Agreement.

“WIFIA Lender” means the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency.

“WIFIA Loan Agreement” means the WIFIA Loan Agreement, dated as of _____, 2022, among the City, the Authority and the WIFIA Lender.

“Written Consent of the Authority or City,” “Written Order of the Authority or City,” “Written Request of the Authority or City,” “Written Requisition of the Authority or City”

The terms “Written Consent of the Authority or City,” “Written Order of the Authority or City,” “Written Request of the Authority or City,” and “Written Requisition of the Authority or City” mean, respectively, a written consent, order, request or requisition signed by or on behalf of (i) the Authority by its Chairman, Vice Chairman, or Executive Director or (ii) the City by the Mayor, Vice Mayor or City Manager or by any person who is specifically authorized by resolution of the City (a certified copy of which has been delivered to the Trustee) to sign or execute such a document on its behalf.

“2022 Project” means any additions, betterments, extensions or improvements to the Water System, the design, acquisition or construction of which (together with the incidental costs and expenses related thereto) is to be financed by the proceeds of the Authority Bonds, which may include improvements to both

the water treatment (i.e. filter control replacement system, new clarifier and filter system, raw water reservoir improvements, vehicle and equipment replacement and storage tank repairs) and water distribution (i.e. water pipeline replacement, water distribution expansion and storage tank improvements).

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.01. Representations by the City. The City makes the following representations:

(a) The City is a general law city and a municipal corporation duly organized and existing under and pursuant to the laws of the State of California.

(b) The City has full legal right, power and authority to enter into this Agreement and carry out its obligations hereunder, to carry out and consummate all other transactions contemplated by this Agreement, and the City has complied with the provisions of the Law in all matters relating to such transactions.

(c) By proper action, the City has duly authorized the execution, delivery and due performance of this Agreement.

(d) The City will not take or, to the extent within its power, permit any action to be taken as a consequence of which any Interest Component of Series 2022 Installment Payments would fail to be excluded pursuant to section 103(a) of the Code from the gross income of the Authority or its assigns for purposes of federal income taxation, or to fail to be exempt from State of California personal income taxes.

(e) The City has determined that it is necessary and proper for City uses and purposes within the terms of the Law that the City finance/refinance the 2022 Project in the manner provided for in this Agreement.

(f) The City affirms all of the representations and warranties made by the City under Section 13 of the WIFIA Loan Agreement.

SECTION 2.02. Representations and Warranties by the Authority. The Authority makes the following representations and warranties:

(a) The Authority is a joint exercise of powers agency duly organized and in good standing under the laws of the State of California, has full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated by this Agreement and by proper action has duly authorized the execution and delivery and due performance of this Agreement.

(b) The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not violate any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the Authority is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Authority.

(c) The Authority affirms all of the representations and warranties made by the Authority in Section 12 of the WIFIA Loan Agreement.

ARTICLE III

ISSUANCE OF AUTHORITY BONDS; SALE AND PURCHASE OF THE PROJECT

SECTION 3.01. The Authority Bonds. The Authority has authorized the issuance of the Authority Bonds pursuant to the Indenture in the aggregate principal amount of _____ Dollars (\$_____) of Series 2022 Bonds. The City hereby approves the Indenture, the assignment to the Trustee of the rights of the Authority assigned under and pursuant to the Indenture, and the issuance of the Authority Bonds by the Authority under and pursuant to the Indenture. The Authority Bonds and the Series 2022 Installment Payments shall mature the earliest of (a) June 1, 2061; (b) the date on which the maturity of the WIFIA Loan has been accelerated or subject to mandatory redemption or prepayment (as the case may be); and (c) the June 1 immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

SECTION 3.02. Appointment of City as Agent of Authority. The Authority hereby appoints the City as its agent to carry out all phases of the Acquisition and Construction of the additional 2022 Project to the Water System pursuant to and in accordance with the provisions hereof and the Indenture. The City hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Authority regarding the Acquisition and Construction of the 2022 Project. The Authority, or the City as agent of the Authority hereunder, shall enter into, administer and enforce all purchase orders or other contracts relating to the Acquisition and Construction of the 2022 Project. All contracts for, and all work relating to, the Acquisition and Construction of the 2022 Project shall be subject to all applicable provisions of law relating to the acquisition, construction, improvement, and equipping of like facilities and property by the City.

SECTION 3.03. Sale and Purchase of the 2022 Project. As consideration for the proceeds of the Authority Bonds, the Authority hereby agrees to purchase, and the City hereby agrees to sell, the 2022 Project. As consideration for the City's agreement to make Series 2022 Installment Payments in accordance with Section 4.02 hereof, the Authority hereby agrees to sell, and the City hereby agrees to purchase, the 2022 Project. All right, title and interest in the 2022 Project shall vest in the City immediately upon execution of this Agreement. Such vesting shall occur without further action by the Authority or the City; and the Authority shall, if requested by the City or if necessary to assure such automatic vesting, deliver any and all documents required to assure such vesting.

ARTICLE IV

SERIES 2022 INSTALLMENT PAYMENTS

SECTION 4.01. Purchase Price.

(a) The Purchase Price to be paid by the City hereunder to the Authority is the sum of the principal amount of the City's obligations hereunder plus the interest to accrue on the unpaid balance of such principal amount from the effective date hereof over the term hereof, subject to prepayment as provided in Article VII.

(b) The principal amount of the payments to be made by the City hereunder on each Series 2022 Installment Payment Date is set forth in Exhibit A hereto; provided, however, the amount payable by the City to the Authority on each Series 2022 Installment Payment Date shall be reduced

by the amount, if any, on deposit in the Bond Payment Fund and available or to be available for the payment of principal of and interest on the Authority Bonds on such Interest Payment Date as a result of prepayment in accordance with Article VII.

(c) The interest to accrue on the unpaid balance of such principal amount is as specified in Section 4.02 and Exhibit A hereto, and shall be paid by the City as and constitute interest paid on the principal amount of the City's obligations hereunder.

SECTION 4.02. Series 2022 Installment Payments. The Borrower shall pay interest on the Purchase Price outstanding at the WIFIA Interest Rate; provided, that, upon the occurrence of an Event of Default, the City shall pay interest on the Purchase Price outstanding at the Default Rate, (a) in the case of an Event of Default described in Section 8.01(1), from (and including) its due date to (but excluding) the date of actual payment of the overdue amount of the Purchase Price then outstanding and accrued interest thereon and (b) in the case of any other Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of the date on which (i) such Event of Default has been cured (if applicable) in accordance with the terms of this Agreement and the WIFIA Loan Agreement or waived by the WIFIA Lender and (ii) the remaining balance of the Purchase Price has been irrevocably paid in full in immediately available funds. Interest shall (x) accrue on the Purchase Price commencing on the date of the first disbursement of the proceeds under the WIFIA Loan Agreement, (y) be payable commencing on the Debt Service Payment Commencement Date and (z) be computed on the Purchase Price outstanding on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Each Series 2022 Installment Payment shall be paid to the Authority in lawful money of the United States of America. If the City fails to make any of the payments required to be made by it under this section, such payment shall continue as an obligation of the City until such amount shall have been fully paid; and the City agrees to pay the same with interest accruing thereon at the rate or rates of interest then applicable to the remaining unpaid principal balance of the Series 2022 Installment Payments if paid in accordance with their terms.

The obligation of the City to make the Series 2022 Installment Payments is absolute and unconditional, and until such time as the Purchase Price shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Article IX), the City will not discontinue or suspend any Series 2022 Installment Payments required to be made by it under this section when due, whether or not the Water System or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced, curtailed or terminated in whole or in part and such payments shall not be subject to reduction whether by offset, abatement or otherwise and shall not be conditional upon the performance or nonperformance by any party to any agreement for any cause whatsoever.

SECTION 4.03. Additional Payments. In addition to the Series 2022 Installment Payments, the City shall pay when due all costs and expenses incurred by the Authority to comply with the provisions of the Indenture and the WIFIA Loan Agreement, including without limitation all costs of the City to issue the Series 2022 Bonds, and shall pay to the Trustee upon request therefor all compensation for fees due to the Trustee and all of its costs and expenses payable as a result of the performance of and compliance with its duties hereunder or under the Indenture or any related documents, together with all amounts required to indemnify the Trustee pursuant to Sections 6.13 and Section 6.14 of the Indenture, and all costs and expenses of attorneys, auditors, engineers and accountants. The rights of the Trustee and the obligations of the City under this Section 4.03 shall survive the termination of this Agreement and the resignation and removal of the Trustee.

ARTICLE V

SECURITY

SECTION 5.01. Pledge of Net Water System Revenues. All Net Water System Revenues are hereby irrevocably pledged to the payment of the Series 2022 Installment Payments as provided herein and Net Water System Revenues shall not be used for any purpose other than as permitted herein while any of the Series 2022 Installment Payments remain unpaid. This pledge shall constitute a lien on Net Water System Revenues, including Net Water System Revenues in the Revenue Fund established herein, subject to the terms hereof, for the payment of the Series 2022 Installment Payments, in accordance with the terms hereof and the Indenture, and all other Obligations in accordance with the terms hereof.

SECTION 5.02. Allocation of Net Water System Revenues. To carry out and effectuate the pledge and lien contained herein, the City agrees and covenants that all Water System Revenues shall be received by the City in trust hereunder and shall be deposited when and as received in a special fund designated as the “Revenue Fund,” which fund is hereby created and established and which fund the City agrees and covenants to maintain and to hold in trust separate and apart from other funds so long as any Obligations remain unpaid. Moneys in the Revenue Fund shall be used and applied by the City as provided in this Agreement. Investment earnings received by the Trustee from the investment of moneys on deposit in the Bond Payment Fund and the Reserve Fund are to be retained by the Trustee and applied by it as provided for in the Indenture.

The City shall, first from the moneys in the Revenue Fund, pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs, the payment of which is not then immediately required) as they become due and payable. Thereafter, all Net Water System Revenues in the Revenue Fund shall be set aside by the City at the following times for the transfer to the following respective special funds in the following order of priority; and all moneys in each of such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes set forth in this Section 5.02.

(a) **Bond Payment Fund.** On or before each Series 2022 Installment Payment Date until the Authority Bonds have been paid or provision for their payment has been made as provided in Section 9.03 of the Indenture, the City shall, from the moneys in the Revenue Fund, transfer to the Trustee for deposit in the Bond Payment Fund the Series 2022 Installment Payment due and payable on that Series 2022 Installment Payment Date. Such deposit to the Bond Payment Fund shall be reduced to the extent amounts on deposit therein are available for application to the Series 2022 Installment Payment due and payable on such Series 2022 Installment Payment Date.

The City shall also, from the moneys in the Revenue Fund, transfer to the trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, to pay any other debt service in accordance with the provisions of any Bond or Contract.

(b) **Reserve Fund.** On or before each Series 2022 Installment Payment Date until the Authority Bonds have been paid, or provision for their payment has been made as provided in Section 10.03 of the Indenture, the City shall, from the remaining moneys in the Revenue Fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, transfer to the Trustee or other fiduciary for deposit in the Reserve Fund and such other reserve funds and/or accounts, if any, as may have been established in connection with City Bonds or Contracts, other than this Agreement, that sum, if any, necessary to

restore the Reserve Fund to an amount equal to the Reserve Requirement and/or such reserve funds or accounts to an amount equal to the amount required to be maintained therein.

No transfer of moneys for deposit to the Reserve Fund in connection with the Series 2022 Installment Payments need be made if the amount contained therein is at least equal to the Reserve Requirement.

(c) Surplus. Moneys on deposit in the Revenue Fund not necessary to make any of the payments required above, may be expended by the City at any time for any purpose permitted by law; provided however, for the term of the WIFIA Loan Agreement, the City shall not permit Net Water System Revenues or other assets of the Water System, or any funds in any accounts held under the Installment Purchase Agreement or in any other fund or account held by or on behalf of the City for the benefit of the Water System, to be paid or transferred or otherwise applied for purposes other than ownership, operation or maintenance of the Water System; provided that the City may transfer excess Net Water System Revenues from the Revenue Fund to the general fund of the City for the sole purpose of reimbursing to the City's general fund amounts previously expended out of the City's general fund to pay for costs directly related to the ownership, construction and improvement, operation or maintenance of the Water System.

SECTION 5.03. Additional Obligations. The City may at any time execute any Contract or issue any City Bonds, as the case may be, in accordance herewith, provided, however, that: (1) the City shall not issue or incur any Additional Obligations during the term of the WIFIA Loan Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Water System Revenues senior to the Series 2022 Installment Payments; and (2) the City may not issue or incur any Additional Obligations during the term of the WIFIA Loan Agreement unless all of the following conditions are satisfied:

(a) No Event of Default shall have occurred and be continuing, and the City shall deliver a certificate to that effect to the Trustee; and

(b) the City obtains or provides a certificate or certificates prepared by an Independent Financial Consultant showing that

(i) the Net Water System Revenues as shown by the books of the City for the twelve (12) calendar months ending 90 days prior to the end of the month in which such Additional Obligations are incurred (the "Look Back Period"), shall have amounted to at least the sum of (x) one hundred ten percent (110%) of Debt Service for such Look Back Period, plus (y) the amount by which the amount on deposit in the Revenue Fund on the first day of such Look Back Period was less than twenty-five percent (25%) of Maximum Annual Debt Service on all Outstanding City Bonds and Contracts calculated on the first day of such Look Back Period; for purposes of preparing the certificate or certificates described above, the Consultant or Consultants may rely upon financial statements prepared by the City for all or any part of the Look Back Period, which have not been subject to audit by an Independent Certified Public Accountant if audited financial statements for the Fiscal Year or period are not available;

(ii) the estimated Net Water System Revenues for the twelve (12) calendar months following the date of incurring such Additional Obligations will be at least equal to one hundred ten percent (110%) of Maximum Annual Debt Service on all City Bonds and Contracts to be outstanding immediately after the incurring of such Additional Obligations; and

(iii) the amount on deposit in the Revenue Fund on the date of incurring such Additional Obligations is at least equal to twenty-five percent (25%) of Maximum Annual Debt Service on all Outstanding City Bonds and Contracts as of the date of incurring of such Additional Obligations.

(c) For purposes of the computations to be made as described in clause (ii) above, the determination of the Net Water System Revenues:

(i) may take into account any increases in rates and charges that relate to the Water System and shall take into account any reduction in such rates and charges that will be effective prior to or at the time of incurring such proposed Additional Obligations;

(ii) may take into account an allowance for any estimated increase in such Net Water System Revenues from any revenue producing additions to or improvements or extensions of the Water System to be made with the proceeds of such Additional Obligations or with the proceeds of Obligations previously issued, as shown by a certificate of an Independent Financial Consultant; and

(iii) for the period contemplated by clause (ii) above, Maintenance and Operation Costs of the Water System shall be deemed to be the same as for the period for which a calculation is done pursuant to clause (i) above, but adjusted, if deemed necessary by the Independent Financial Consultant, for any increased Maintenance and Operation Costs of the Water System which are, in the judgment of the Independent Financial Consultant, essential to maintaining and operating the Water System, including any additions or betterments thereto to be made with the proceeds of such Additional Obligations.

The certificate or certificates described above shall not be required if the Additional Obligations being incurred are for the purpose of refunding then outstanding Obligations and at the time of the incurring of such Additional Obligations a certificate of an Authorized Official shall be delivered showing that Maximum Annual Debt Service on all Outstanding City Bonds and Contracts after the incurring of such Additional Obligations will not exceed Maximum Annual Debt Service on all Obligations outstanding prior to the incurring of such Additional Obligations.

(d) The City shall not, for the term of the WIFIA Loan Agreement, issue or incur any Obligations for the 2022 Project that are secured by a lien on any assets or property of the City other than the Net Water System Revenues.

SECTION 5.04. Investments. All moneys held by the City in the Revenue Fund shall be invested in Permitted Investments and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

ARTICLE VI

COVENANTS OF THE CITY

SECTION 6.01. Compliance with Installment Purchase Agreement and Ancillary Agreements. The City will punctually pay the Series 2022 Installment Payments in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Agreement for

any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Water System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the Authority or any force majeure, including acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

The City will faithfully observe and perform all the agreements, conditions, covenants and terms contained in the Indenture required to be observed and performed by it; and it is expressly understood and agreed by and between the parties to this Agreement that, subject to Section 11.07 hereof, each of the agreements, conditions, covenants and terms contained in each of this Agreement and the Indenture is an essential and material term of the purchase of and payment for the 2022 Project by the City pursuant to and in accordance with this Agreement.

The City will faithfully observe and perform all the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Contracts and City Bonds as such may from time to time be executed or issued, as the case may be.

SECTION 6.02. Against Encumbrances. The City will not make any pledge of or place any lien on Net Water System Revenues or the moneys in the Revenue Fund except as provided herein. The City may at any time, or from time to time, issue evidences of indebtedness or incur other obligations for any lawful purpose that are payable from and secured by a pledge of and lien on Net Water System Revenues or any moneys in the Revenue Fund as may from time to time be deposited therein (as provided in Section 5.02), provided that such pledge and lien shall be subordinate in all respects to the pledge of and lien thereon provided herein. The City will not issue any evidences of indebtedness or incur other obligations that are payable from and secured by a pledge of and lien on Net Water System Revenues senior to the pledge of and lien on Net Water System Revenues of the Series 2022 Installment Payments.

SECTION 6.03. Against Sale or Other Disposition of Property. The City will not enter into any agreement or lease that impairs the operation of the Water System or any part thereof necessary to secure adequate Net Water System Revenues for the payment of the Series 2022 Installment Payments, or that would otherwise impair the rights of the Authority hereunder or the operation of the Water System. Any real or personal property that has become nonoperative or that is not needed for the efficient and proper operation of the Water System, or any material or equipment that has become worn out, may be sold if such sale will not impair the ability of the City to pay the Series 2022 Installment Payments and if the proceeds of such sale are deposited in the Revenue Fund.

Nothing herein shall restrict the ability of the City to sell any portion of the Water System if such portion is immediately repurchased by the City and if such arrangement cannot by its terms result in the purchaser of such portion of the Water System exercising any remedy that would deprive the City of or otherwise interfere with its right to own and operate such portion of the Water System.

SECTION 6.04. Maintenance and Operation of the Water System. The City will maintain and preserve the Water System in good repair and working order at all times and will operate the Water System in an efficient and economical manner and will pay all Maintenance and Operation Costs as they become due and payable.

SECTION 6.05. Payment of Claims. The City will pay and discharge any and all lawful claims for labor, materials or supplies that, if unpaid, might become a lien on the Net Water System Revenues or the funds or accounts created hereunder or under the Indenture or on any funds in the hands of the City pledged to pay the Series 2022 Installment Payments or to the Owners prior or superior to the lien of the Series 2022 Installment Payments or that might impair the security of the Series 2022 Installment Payments, except that if the City desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or any process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and such stay thereafter expires, the City will forthwith pay or cause to be paid and discharged such judgment.

SECTION 6.06. Insurance.

(a) The City will procure and maintain or cause to be procured and maintained insurance relating to the Water System with responsible insurers in such amounts and against such risks (including damage to or destruction of the Water System) as are usually covered in connection with facilities similar to the Water System, so long as such insurance is available from reputable insurance companies at reasonable costs.

In the event of any damage to or destruction of the Water System caused by the perils covered by such insurance, the following shall apply; provided however, the following shall not apply, if (1) the Net Proceeds are less than \$50,000, in which case the City may determine the use of such proceeds; or (2) the City certifies in a Written Order of the City delivered to the Trustee that if the damaged or destroyed portion of the Water System is not repaired or replaced, the Water System will generate Net Water System Revenues equal to at least 125% of the amount described in clause (b) of Section 6.10 for each future fiscal year that the Authority Bonds are scheduled to remain outstanding without a rate increase triggering a noticed Proposition 218 rate hearing:

(i) The Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Water System. The City shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the Water System shall be free and clear of all claims and liens.

(ii) If such Net Proceeds are sufficient to enable the City to retire the entire obligation evidenced hereby prior to the final due date of the Series 2022 Installment Payments as well as the entire obligations evidenced by City Bonds and Contracts then remaining unpaid prior to their final respective due dates, the City may elect not to reconstruct, repair or replace the damaged or destroyed portion of the Water System, and/or not to construct other additions, betterments, extensions or improvements to the Water System; and thereupon such Net Proceeds shall be applied to the prepayment of Series 2022 Installment Payments as provided in Article VII and to the retirement of such City Bonds and Contracts.

(iii) If such Net Proceeds exceed the costs of such reconstruction, repair or replacement portion of the Water System, and/or the cost of the construction of additions, betterments, extensions or improvements to the Water System, then the excess Net Proceeds may, in the City's discretion, be applied in part to the prepayment of Series 2022 Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of City Bonds and Contracts in the same

proportion that the aggregate unpaid principal balance of Series 2022 Installment Payments then bears to the aggregate unpaid principal amount of such City Bonds and Contracts.

(b) The City will procure and maintain such other insurance as it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with municipal water systems similar to the Water System.

(c) Any insurance required to be maintained by paragraph (a) above and, if the City determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with water systems similar to the Water System and is, in the opinion of an accredited actuary, actuarially sound.

All policies of insurance required to be maintained herein shall provide that the Authority and the Trustee shall be given thirty (30) days written notice of any intended cancellation thereof or reduction of coverage provided thereby.

The Trustee shall not be responsible for the sufficiency or adequacy of the insurance maintained by the City.

SECTION 6.07. Accounting Records; Financial Statements and Other Records.

(a) The City will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the Water System, which records shall be available for inspection by the Authority and the Trustee at reasonable hours and under reasonable conditions.

(b) The City will prepare and file with the Authority and, upon request of the Trustee, annually within one hundred eighty (180) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2022);

(1) financial statements of the City for the preceding Fiscal Year prepared in accordance with generally accepted accounting principles, together with a report of an Independent Certified Public Accountant thereon; and

(2) a detailed report as to all insurance policies maintained and self-insurance programs maintained by the City with respect to the Water System, as of the close of such Fiscal Year, including the names of the insurers that have issued the policies and the amounts thereof and the property or risks covered thereby and a statement that all such policies comply with Section 6.08 hereof.

The Trustee shall have no duty to review, verify or analyze the documents provided to it pursuant to this Section 6.07(b)(1) and shall hold such documents solely as a repository for the benefit of the Owners. The Trustee shall not be deemed to have notice of any information contained therein or default or Event of Default which may be disclosed therein in any manner.

SECTION 6.08. Protection of Security and Rights of the Authority. The City will preserve and protect the security hereof and the rights of the Authority to the Series 2022 Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

SECTION 6.09. Payment of Taxes and Compliance with Governmental Regulations. The City will pay and discharge all taxes, assessments and other governmental charges that may hereafter be lawfully imposed upon the Water System, or any part thereof or upon the Water System Revenues when the same shall become due. The City will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the Water System, or any part thereof, but the City shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

SECTION 6.10. Amount of Rates and Charges, Operating Reserves. (i) The City shall fix, prescribe, and collect fees, rates, and charges for the Water System which will be at least sufficient to yield during each Fiscal Year Net Water System Revenues equal to the sum of (a) one hundred ten percent (110%) of the Debt Service for such Fiscal Year, plus (b) the amount by which the amount on deposit in the Revenue Fund on the last day of the immediately preceding Fiscal Year was less than twenty-five percent (25%) of Maximum Annual Debt Service as of such day. The City may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Water System Revenues from such reduced rates and charges will at all times be sufficient to meet the requirements of this Section; and

(ii) So long as the WIFIA Loan Agreement is in effect, if:

(A) the forecast furnished by the City in the most recent Updated Financial Model/Plan, as defined in the WIFIA Loan Agreement, delivered by the City pursuant to Part A of Schedule V (Reporting Requirements) of the WIFIA Loan Agreement demonstrates that projected Net Water System Revenues may be inadequate to satisfy paragraph (i) above for any Fiscal Year during the Forecast Period, as defined in the WIFIA Loan Agreement, then the City shall propose a remedial course of action, which plan shall demonstrate to the WIFIA Lender's satisfaction that such plan will generate an equivalent or greater increase to the Net Water System Revenues so as to satisfy paragraph (i) above; and/or

(B) the City fails to satisfy paragraph (i) above for the most recently ended Fiscal Year, then the City shall (A) within thirty (30) days after request by the WIFIA Lender, engage the Technical and Rate Consultant, as defined in the WIFIA Loan Agreement, to review and analyze the operations of the Water System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net Water System Revenues so as to satisfy paragraph (i) of this Section 6.10, (B) cause the Technical and Rate Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (C) either, within sixty (60) days following the issuance of the Technical and Rate Consultant's report, (1) implement the Technical and Rate Consultant's recommendations or (2) undertake an alternative course of action after demonstrating to the WIFIA Lender's satisfaction that an alternative plan will generate an equivalent or greater increase to the Net Water System Revenues so as to satisfy paragraph (i) of this Section 6.10.

SECTION 6.11. Collection of Rates and Charges. The City will have in effect at all times rules and regulations requiring each customer to pay the rates, fees and charges applicable to the Water Services and providing for the billing thereof and for a due date and a delinquency date for each bill.

SECTION 6.12. Eminent Domain Proceeds. If all or any part of the Water System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows; provided however, the following shall not apply, if (1) the Net Proceeds are less than \$50,000, in which case the City may

determine the use of such proceeds; or (2) the City certifies in a Written Order of the City delivered to the Trustee that if the portion of the Water System taken by eminent domain is not replaced, the Water System will generate Net Water System Revenues equal to at least 125% of the amount described in clause (b) of Section 6.10 for each future fiscal year that the Authority Bonds are scheduled to remain outstanding without a rate increase triggering a noticed Proposition 218 rate hearing:

(a) If (1) the City files with the Authority and the Trustee a certificate showing (i) the estimated loss of annual Net Water System Revenues, if any, suffered or to be suffered by the City by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Water System proposed to be acquired and constructed by the City from such Net Proceeds, and (iii) an estimate of the additional annual Net Water System Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the City, on the basis of such certificate filed with the Authority and the Trustee, determines that the estimated additional annual Net Water System Revenues will sufficiently offset the estimated loss of annual Net Water System Revenues resulting from such eminent domain proceedings so that the ability of the City to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the City shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the City for such purpose shall be deposited in the Revenue Fund.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied by the City in part to the prepayment of Series 2022 Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of City Bonds and Contracts in the same proportion that the aggregate unpaid principal balance of Series 2022 Installment Payments then bears to the aggregate unpaid principal amount of such City Bonds and Contracts.

SECTION 6.13. Further Assurances. The City will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

SECTION 6.14. Continuing Disclosure. The City will comply with the continuing disclosure requirements promulgated under U.S. Securities and Exchange Commission Rule 15c2 12 and will also comply with the terms of the Continuing Disclosure Agreement.

SECTION 6.15. Access to the Water System. The City agrees that the Authority and the Trustee, and any duly authorized representative thereof, shall have the right at all reasonable times to enter upon and to examine and inspect the Water System. The City further agrees that the Authority and the Trustee, and any duly authorized representative thereof, shall have such rights of access to the Water System as may be reasonably necessary to cause the proper maintenance of the Water System in the event of failure by the City to perform its obligations hereunder.

SECTION 6.16. Covenants in WIFIA Loan Agreement. The City agrees that it will comply with all of the covenants and conditions in Sections 18 and 19 of the WIFIA Loan Agreement during the Term of the WIFIA Loan Agreement.

ARTICLE VII

PREPAYMENT OF SERIES 2022 INSTALLMENT PAYMENTS

SECTION 7.01. Prepayment. The City may exercise its option to prepay the principal components of the Series 2022 Installment Payments without penalty or premium, (i) in full on any date or (ii) in part on any Series 2022 Installment Payment Date (and, if in part, the amounts thereof to be prepaid shall be determined by the City; provided, that such prepayment shall be in principal amounts of \$[1,000,000] or any integral multiple of \$1.00 in excess thereof), in each case from time to time but not more than once annually. Each prepayment hereunder shall be made on such date and in such principal amount as shall be specified by the City in a Written Request of the City and delivered to the Authority, the Trustee and the WIFIA Lender not less than thirty (30) days prior to the requested date of prepayment, unless otherwise agreed by the WIFIA Lender.

SECTION 7.02. Method of Prepayment. Upon the WIFIA Lender's receipt of confirmation that payment in full in immediately available funds of all outstanding Series 2022 Installment Payments (the entire WIFIA Loan Balance) and any unpaid interest, fees and expenses with respect thereto has occurred as a result of a prepayment, the WIFIA Lender shall surrender the WIFIA Bond to the Authority or its authorized representative, by mail in accordance with Section 35 (Notices) of the WIFIA Loan Agreement or as otherwise agreed between the parties hereto. If the City prepays only part of the unpaid balance of principal of the Series 2022 Installment Payments and WIFIA Loan, the WIFIA Lender may make a notation on the WIFIA Loan Amortization Schedule indicating the amount of principal of and interest on the WIFIA Loan then being prepaid. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on an updated WIFIA Loan Amortization Schedule shall be conclusive evidence thereof; provided, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the City's obligations hereunder or under any other WIFIA Loan Document. All partial prepayments of principal shall be applied to reduce the principal component of Series 2022 Installment Payments and WIFIA Loan Balance such that the remaining scheduled principal components of the Series 2022 Installment Payments due hereunder and principal payments for the WIFIA Loan set out in the WIFIA Loan Amortization Schedule are reduced in inverse order of maturity or, at the election of the City evidenced by a written request of the City filed with the WIFIA Lender at least thirty (30) days prior to the date of prepayment, on a pro rata basis (provided that, in any event, the WIFIA Debt Service following such prepayment shall be equal in time and amount to the unpaid payments due under this Installment Purchase Agreement). If such funds have not been so paid on the prepayment date, such principal components of the Series 2022 Installment Payments due hereunder and principal amount of the WIFIA Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6 (Interest Rate) of the WIFIA Loan Agreement.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF THE AUTHORITY

SECTION 8.01. Events of Default and Acceleration of Maturities. If one or more of the following Events of Default shall happen, that is to say --

- (1) if default shall be made in the due and punctual payment of any Series 2022 Installment Payment or any Contract or Bond when and as the same shall become due and payable;
- (2) if default shall be made by the City in the performance of any of the agreements or covenants required herein to be performed by it, and such default shall have continued for a period of thirty (30) days after the City shall have been given notice in writing of such default by the

Authority; provided, however, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such thirty (30) day period, such failure shall not constitute an Event of Default if corrective action is instituted by the City within such thirty (30) day period and the City shall thereafter diligently and in good faith cure such failure in a reasonable period of time, which period shall not extend more than one hundred eighty (180) days from the date of the default notice; or

(3) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property; or

(4) any Event of Default, as described in Section 21 of the WIFIA Loan Agreement and not otherwise described herein;

then and in each and every such case during the continuance of such Event of Default specified in clause (3) above, the Authority shall, and for any other such Event of Default the Authority may, by notice in writing to the City, declare the entire principal amount of the unpaid Series 2022 Installment Payments and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding. This subsection however, is subject to the condition that if at any time after the entire principal amount of the unpaid Series 2022 Installment Payments and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered the City shall deposit with the Authority a sum sufficient to pay the unpaid principal amount of the Series 2022 Installment Payments or the unpaid payment of any other Contract or Bond referred to in clause (1) above due prior to such declaration and the accrued interest thereon, with interest on such overdue installments, at the rate or rates applicable to the remaining unpaid principal balance of the Series 2022 Installment Payments or such Contract or Bond if paid in accordance with their terms, and the reasonable expenses of the Authority, and any and all other defaults known to the Authority (other than in the payment of the entire principal amount of the unpaid Series 2022 Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

SECTION 8.02. Application of Funds Upon Acceleration. Upon the date of the declaration of acceleration as provided in Section 8.01, all Net Water System Revenues thereafter received shall be applied in the following order –

First, to the payment of the fees, costs and expenses of the Trustee, if any, in carrying out the provisions of this article and of the WIFIA Lender in enforcing its rights and remedies pursuant to the WIFIA Loan Agreement or as a third party beneficiary hereunder, including reasonable compensation to their respective accountants, advisors and legal counsel and then to the payment of the fees, costs and expenses of the Authority, if any, in carrying out the provisions of this article, including reasonable compensation to its accountants, advisors and legal counsel; and

Second, to the payment of the entire principal amount of the unpaid Series 2022 Installment Payments and the unpaid principal amount of all City Bonds and Contracts and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable to the Series 2022 Installment Payments and such City Bonds and Contracts if paid in accordance with their respective terms.

SECTION 8.03. Other Remedies of the Authority. The Authority shall have the right –

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the City or any director, officer or employee thereof, and to compel the City or any such director, officer or employee to perform and carry out its or his duties under the Law and the agreements and covenants required to be performed by it or him contained herein:

(b) by suit in equity to enjoin any acts or things that are unlawful or violate the rights of the Authority or the Trustee; or

(c) by suit in equity upon the happening of an Event of Default to require the City and its directors, officers and employees to account as the trustee of an express trust.

Notwithstanding anything contained herein, the Authority shall have no security interest in or mortgage on the 2022 Project or the Water System or any other real property of the City and no default hereunder shall result in the loss of the 2022 Project or the Water System or any other real property of the City

SECTION 8.04. Non-Waiver. Nothing in this article or in any other provision hereof shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the Series 2022 Installment Payments to the Authority at the respective due dates or upon prepayment from the Net Water System Revenues, the Revenue Fund and the other funds herein pledged for such payment, or shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Authority by the Law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority, the City and the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

SECTION 8.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority or the Bond Owners, or as provided in the Indenture, is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Indenture or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by the Law or any other law.

ARTICLE IX

DISCHARGE OF OBLIGATIONS

SECTION 9.01. Discharge of Obligations. When:

(a) all or any portion of the Series 2022 Installment Payments shall have become due and payable in accordance herewith or a written notice of the City to prepay all or any portion of the Series 2022 Installment Payments shall have been filed with the Trustee; and

(b) there shall have been deposited with the Trustee at or prior to the Series 2022 Installment Payment Dates or date (or dates) specified for prepayment, in trust for the benefit of the Authority or its assigns and irrevocably appropriated and set aside to the payment of all or any portion of the Series 2022 Installment Payments, sufficient moneys and Permitted Investments, in the amounts required by Section 10.03 of the Indenture, described in paragraph (1), (2) or (3) of the definition thereof, the principal of and interest on which when due will provide money sufficient to pay all principal, prepayment premium, if any, and interest of such Series 2022 Installment Payments to their respective Series 2022 Installment Payment Dates or prepayment date or dates as the case may be; and

(c) provision shall have been made for paying all fees and expenses of the Trustee,

then and in that event, the right, title and interest of the Authority herein and the obligations of the City hereunder shall, with respect to all or such portion of the Series 2022 Installment Payments as have been so provided for, thereupon cease, terminate, become void and be completely discharged and satisfied (except for the right of the Trustee and the obligation of the City to have such moneys and such Permitted Investments applied to the payment of such Series 2022 Installment Payments).

In such event, upon request of the City the Trustee shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence such total or partial discharge and satisfaction, as the case may be, prepared by or on behalf of and at the expense of the City, and, in the event of a total discharge and satisfaction, the Trustee shall pay over to the City, after payment of all amounts due the Trustee pursuant to the Indenture and payment of all amounts due the WIFIA Lender pursuant to the WIFIA Loan Agreement, as an overpayment of Series 2022 Installment Payments, all such moneys or such Permitted Investments held by it pursuant hereto other than such moneys and such Permitted Investments as are required for the payment or prepayment of the Series 2022 Installment Payments, which moneys and Permitted Investments shall continue to be held by the Trustee in trust for the payment of the Series 2022 Installment Payments and shall be applied by the Trustee to the payment of the Series 2022 Installment Payments of the City.

ARTICLE X

[RESERVED]

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Liability of City Limited to Net Water System Revenues. Notwithstanding anything contained herein, the City shall not be required to advance any moneys derived from any source

of income other than the Net Water System Revenues, the Revenue Fund and the other funds provided herein and in the Indenture for the payment of the Series 2022 Installment Payments or for the performance of any agreements or covenants required to be performed by it contained herein. The City may, however, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the City for such purpose.

The obligation of the City to make the Series 2022 Installment Payments is a special obligation of the City payable solely from Net Water System Revenues, the Revenue Fund and other funds described in this Agreement and in the Indenture, and does not constitute a debt of the City or of the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

SECTION 11.02. Benefits of Installment Purchase Agreement Limited to Parties. Except as provided in Section 11.05 hereto, nothing contained herein, expressed or implied, is intended to give to any person other than the City or the Authority any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the City or the Authority shall be for the sole and exclusive benefit of the other party.

SECTION 11.03. Successor Is Deemed Included in all References to Predecessor. Whenever either the City or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the City or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

SECTION 11.04. Waiver of Personal Liability. No director, officer or employee of the City shall be individually or personally liable for the payment of the Series 2022 Installment Payments, but nothing contained herein shall relieve any director, officer or employee of the City from the performance of any official duty provided by any applicable provisions of law or hereby.

SECTION 11.05. Third Party Beneficiary. The Trustee and the WIFIA Lender shall each be and is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary and may enforce the provisions of this Agreement as if they were a party hereto.

SECTION 11.06. Article and Section Headings; Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

SECTION 11.07. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City or the Authority shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The City and the Authority hereby declare that they would have executed this Agreement, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 11.08. Assignment. This Agreement and any rights hereunder may be assigned by the Authority to the Trustee, as a whole or in part, without the necessity of obtaining the prior consent of the City.

SECTION 11.09. Net Contract. This Agreement shall be deemed and construed to be a net contract, and the City shall pay absolutely net during the term hereof the Series 2022 Installment Payments and all other payments required hereunder, free of any deductions and without abatement, diminution or set-off whatsoever.

SECTION 11.10. California Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 11.11. Notices. All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the City:	City of Oxnard 300 West Third Street Oxnard, CA 93030 Attention: City Manager
If to the Authority:	City of Oxnard Financing Authority 300 West Third Street Oxnard, CA 93030 Attention: Executive Director
If to WIFIA Lender:	Environmental Protection Agency WJC-E 7334A 1200 Pennsylvania Avenue NW Washington, D.C. 20460 Attention: WIFIA Director Email: WIFIA_Portfolio@epa.gov

SECTION 11.12. Effective Date. This Agreement shall become effective upon its execution and delivery, and shall terminate when the Purchase Price shall have been fully paid (or provision for the payment thereof shall have been made to the written satisfaction of the Authority).

SECTION 11.13. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

SECTION 11.14. Indemnification of Authority. The City hereby agrees to indemnify and hold harmless the Authority if and to the extent permitted by law, from and against all claims, advances, damages and losses, including legal fees and expenses, arising out of or in connection with the acceptance or the performance of its duties hereunder and under the Indenture; provided that no indemnification will be made for willful misconduct, negligence or breach of an obligation hereunder or under the Indenture by the Authority.

SECTION 11.15. Amendments Permitted. (a) This Agreement and the rights and obligations of the Authority, the City, the Owners of the Authority Bonds and of the Trustee may be modified or amended at any time, by an amendment hereto that shall become binding when the written consents of the Owners

of a majority in aggregate principal amount of the Authority Bonds then Outstanding, exclusive of Authority Bonds disqualified as provided in Section 7.02 of the Indenture, shall have been filed with the Trustee. No such modification or amendment shall –

(1) extend the stated maturities of the Authority Bonds, or reduce the rate of interest represented thereby, or extend the time of payment of interest, or reduce the amount of principal represented thereby, or reduce any premium payable on the prepayment thereof, without the consent of the Owner of each Authority Bond so affected, or

(2) reduce the aforesaid percentage of Owners of Authority Bonds whose consent is required for the execution of any amendment or modification of this Agreement, or

(3) modify any of the rights or obligations of the Trustee or the Authority without its respective written consent thereto.

(b) This Agreement and the rights and obligations of the Authority, the City and of the Owners of the Authority Bonds may also be modified or amended at any time, by an amendment hereto that shall become binding upon adoption, without the consent of the Owners of any Authority Bonds, but only to the extent permitted by law and only for any one or more of the following purposes-

(1) to add to the covenants and agreements of the Authority or the City contained in this Agreement other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Authority or the City so long as such limitation or surrender of such rights or powers shall not adversely affect the Owners of the Authority Bonds; and

(2) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, or in any other respect whatsoever as the Authority or the City may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not adversely affect the interests of the Owners of the Authority Bonds.

(c) No amendment without consent of the Owners may modify any of the rights or obligations of the Trustee without its written consent thereto.

(Signature page follows)

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Agreement by their officers thereunto duly authorized as of the day and year first written above.

CITY OF OXNARD

By: _____
Alexander Nguyen
City Manager

CITY OF OXNARD FINANCING AUTHORITY

By: _____
Alexander Nguyen
Executive Director

*-Signature Page-
Installment Purchase Agreement*

EXHIBIT A

PURCHASE PRICE

1. The principal amount of payments to be made by the City hereunder is \$_____.

2. The installment payments of principal and interest are payable five days prior to each Interest Payment Date in the amounts set forth as follows:

Interest Payment <u>Dates</u>	Amount Attributable <u>to Principal</u>	Amount Attributable <u>to Interest</u>	<u>Total</u>
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TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions	1
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ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.01. Representations by the City	8
SECTION 2.02. Representations and Warranties by the Authority	8

ARTICLE III

ISSUANCE OF AUTHORITY BONDS; SALE AND PURCHASE OF THE PROJECT

SECTION 3.01. The Authority Bonds	9
SECTION 3.02. Appointment of City as Agent of Authority	9
SECTION 3.03. Sale and Purchase of the 2022 Project	9

ARTICLE IV

SERIES 2022 INSTALLMENT PAYMENTS

SECTION 4.01. Purchase Price.....	9
SECTION 4.02. Series 2022 Installment Payments	10
SECTION 4.03. Additional Payments.....	10

ARTICLE V

SECURITY

SECTION 5.01. Pledge of Net Water System Revenues	11
SECTION 5.02. Allocation of Net Water System Revenues	11
SECTION 5.03. Additional Obligations.....	12
SECTION 5.04. Investments	13

ARTICLE VI

COVENANTS OF THE CITY

TABLE OF CONTENTS
(continued)

Page

SECTION 6.01. Compliance with Installment Purchase Agreement and Ancillary Agreements.....	13
SECTION 6.02. Against Encumbrances	14
SECTION 6.03. Against Sale or Other Disposition of Property	14
SECTION 6.04. Maintenance and Operation of the Water System	14
SECTION 6.05. Payment of Claims.....	15
SECTION 6.06. Insurance.....	15
SECTION 6.07. Accounting Records; Financial Statements and Other Records.	16
SECTION 6.08. Protection of Security and Rights of the Authority	16
SECTION 6.09. Payment of Taxes and Compliance with Governmental Regulations	17
SECTION 6.10. Amount of Rates and Charges, Operating Reserves.....	17
SECTION 6.11. Collection of Rates and Charges.....	17
SECTION 6.12. Eminent Domain Proceeds.....	17
SECTION 6.13. Further Assurances	18
SECTION 6.14. Continuing Disclosure	18
SECTION 6.15. Access to the Water System.....	18
SECTION 6.16. Covenants in WIFIA Loan Agreement.....	18

ARTICLE VII

PREPAYMENT OF SERIES 2022 INSTALLMENT PAYMENTS

SECTION 7.01. Prepayment	19
SECTION 7.02. Method of Prepayment.....	19

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF THE AUTHORITY

SECTION 8.01. Events of Default and Acceleration of Maturities	19
SECTION 8.02. Application of Funds Upon Acceleration	20
SECTION 8.03. Other Remedies of the Authority.....	21
SECTION 8.04. Non-Waiver	21
SECTION 8.05. Remedies Not Exclusive.....	21

TABLE OF CONTENTS
(continued)

Page

ARTICLE IX

DISCHARGE OF OBLIGATIONS

SECTION 9.01. Discharge of Obligations	22
--	----

ARTICLE X

[RESERVED]

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Liability of City Limited to Net Water System Revenues	22
SECTION 11.02. Benefits of Installment Purchase Agreement Limited to Parties	23
SECTION 11.03. Successor Is Deemed Included in all References to Predecessor	23
SECTION 11.04. Waiver of Personal Liability	23
SECTION 11.05. Third Party Beneficiary	23
SECTION 11.06. Article and Section Headings; Gender and References	23
SECTION 11.07. Partial Invalidity	23
SECTION 11.08. Assignment	24
SECTION 11.09. Net Contract	24
SECTION 11.10. California Law	24
SECTION 11.11. Notices	24
SECTION 11.12. Effective Date	24
SECTION 11.13. Execution in Counterparts	24
SECTION 11.14. Indemnification of Authority	24
SECTION 11.15. Amendments Permitted.....	24
EXHIBIT A – PURCHASE PRICE.....	A-1

INDENTURE OF TRUST

by and among the

CITY OF OXNARD FINANCING AUTHORITY

and

CITY OF OXNARD

and

**COMPUTERSHARE TRUST COMPANY, N.A.,
as Trustee**

Dated as of _____, 2022

Relating to

**\$ _____
CITY OF OXNARD FINANCING AUTHORITY
WATER REVENUE BONDS
SERIES 2022A (WIFIA LOAN)**

INDENTURE OF TRUST

THIS INDENTURE OF TRUST, is dated as of _____, 2022, by and among the CITY OF OXNARD FINANCING AUTHORITY, a joint exercise of powers agency organized and existing under the laws of the State of California (the “Authority”), the CITY OF OXNARD, a general law city and a municipal corporation, duly organized and existing under the laws of the State of California (the “City”), and COMPUTERSHARE TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, and being qualified to accept and administer the trusts hereby created, as Trustee (the “Trustee”).

WITNESSETH:

WHEREAS, the Authority is a joint powers authority authorized to borrow money for the purpose of financing and refinancing public capital improvements; and

WHEREAS, the City owns and operates that certain water system referred to herein as the “Water System”; and

WHEREAS, the City desires to finance the Aquifer Storage Recovery (ASR) Project which consists of the following components: (i) expansion of the City’s Advanced Water Purification Facility capacity, (ii) construction of additional aquifer storage wells, (iii) construction of a distribution pipeline to convey recovered groundwater from the ASR wells to three existing Blending Stations, and (iv) upgrades to two of the city’s Blending Stations including mechanical and electrical upgrades as well as piping modifications and pump replacements (collectively, the “2022 Project”); and

WHEREAS, for the purpose of providing funds to the City to finance the 2022 Project, the Authority has determined to issue its Water Revenue Bonds, Series 2022A (the “Bonds”) in the aggregate principal amount of \$_____ all pursuant to and secured by this Indenture in the manner provided herein; and

WHEREAS, the City and the Authority have determined that it is necessary and desirable to enter into an Installment Purchase Agreement, dated the date hereof (the “Installment Purchase Agreement”), pursuant to which the Authority will sell the 2022 Project to the City in consideration for Installment Payments equal in time and amount to the debt service on the Bonds; and

WHEREAS, the Authority has determined that to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and interest and premium (if any) thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the City and the Authority have determined that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of the principal of and the interest and premium (if any) on all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the owners thereof, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Indenture and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, request or other documents herein mentioned have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. In addition, all capitalized terms used herein and not otherwise defined in this Section 1.01 shall have the respective meanings given such terms in the Installment Purchase Agreement.

“Additional Payments” means the payments so designated and required to be paid by the City pursuant to Section 4.03 of the Installment Purchase Agreement.

“Annual Debt Service” means, for each Bond Year with respect to the Bonds, the sum of (a) the interest payable on the Outstanding Bonds in such Bond Year, and (b) the principal amount of the Outstanding Bonds scheduled to be paid in such Bond Year.

“Authority” means the City of Oxnard Financing Authority, a joint exercise of powers agency duly organized and existing under and by virtue of the laws of the State of California.

“Authorized Investments” means any securities in which the City may legally invest funds subject to its control.

“Authorized Representative” means: (a) with respect to the Authority, its Chairman, Vice Chairman, Executive Director, Secretary or any other person designated as an Authorized Representative of the Authority by a Written Certificate of the Authority signed by its Chairman, Vice Chairman, Executive Director and filed with the City and the Trustee; and (b) with respect to the City, its Mayor, Mayor Pro Tem, City Manager, City Finance Director, City Clerk or any other person designated as an Authorized Representative of the City by a Written Certificate of the City signed by its Mayor, Mayor Pro Tem, City Manager, or City Clerk and filed with the Trustee.

“Bond Counsel” means (a) Best Best & Krieger LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the City of nationally recognized experience in the issuance of obligations of the City and Authority.

“Bond Law” means the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State, as in existence on the Closing Date or as thereafter amended from time to time.

“Bond Payment Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.02(a).

“Bond Year” means any twelve-month period commencing on June 2 in a year and ending on the next succeeding June 1, both dates inclusive; except that the first Bond Year shall commence on the Closing Date and end on June 1, 20__.

“Bonds” means the City of Oxnard Financing Authority Water Revenue Bonds, Series 2022A (WIFIA Loan) issued and at any time Outstanding pursuant to the Bond Law and this Indenture.

“Business Day” means a day (other than a Saturday or a Sunday) on which banks are not required or authorized to remain closed in the city in which the Office of the Trustee is located.

“City” means the City of Oxnard, California, a general law city and a municipal corporation duly organized and existing under the laws of the State of California.

“Closing Date” means _____, being the date of delivery of the Bonds to the Original Purchaser.

“Contracts” means the Installment Purchase Agreement and all contracts or leases of the City authorized and executed by the City under and pursuant to the laws of the State of California, the debt service, installment or lease payments under which are payable from the Net System Revenues on a parity with the Installment Purchase Agreement.

“Debt Service Payment Commencement Date” means the earlier to occur of (a) December 1, 2027; or (b) the Interest Payment Date falling closest to, but not later than, the fifth anniversary of the first disbursement date of the WIFIA Loan (but in any event no later than five (5) years after the Substantial Completion Date of the 2022 Project).

“Default Rate” has the meaning ascribed to such term in Part C of Schedule I (WIFIA Loan Specific Terms) of the WIFIA Loan Agreement.

“Event of Default” means any of the events described in Section 8.01.

“Indenture” means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture pursuant to the provisions hereof.

“Independent Accountant” means any accountant or firm of such accountants appointed and paid by the City or the Authority, and who, or each of whom (a) is in fact independent and not under domination of the City or the Authority; (b) does not have any substantial interest, direct or indirect, with the City or the Authority; and (c) is not connected with the City or the Authority as

an officer or employee of the City or the Authority, but who may be regularly retained to make annual or other audits of the books of or reports to the City or the Authority.

“Information Services” means Electronic Municipal Market Access System (referred to as “EMMA”), a facility of the Municipal Securities Rulemaking Board, at www.emma.msrb.org; provided, however, in accordance with then current guidelines of the Securities and Exchange Commission, Information Services shall mean such other organizations providing information with respect to called Bonds as the Authority may designate in writing to the Trustee.

“Installment Payments” means the payments required to be paid by the City pursuant to Section 4.02 of the Installment Purchase Agreement, including all prepayments thereof.

“Installment Purchase Agreement” means that certain Installment Purchase Agreement by and between the Authority and the City, with respect to the sale of the 2022 Project, dated as of _____, 2022, as originally executed and as it may from time to time be supplemented, modified or amended in accordance with the terms thereof and of this Indenture.

“Interest Payment Date” means December 1 and June 1 in each year, beginning the Debt Service Payment Commencement Date, and continuing so long as any Bonds remain Outstanding.

“Maximum Annual Debt Service” in respect of any Bond Year means the largest of the sums obtained for that or any succeeding Bond Year after totaling the following for each such Bond Year:

- (a) the principal amount of all Outstanding Bonds maturing or required to be redeemed by mandatory Sinking Fund redemption in such Bond Year; and
- (b) the interest that would be due during such Bond Year on the aggregate principal amount of Bonds which would be Outstanding in such Bond Year if the Bonds Outstanding on the date of such computation were to mature or be redeemed in accordance with the applicable maturity or mandatory Sinking Fund redemption schedule. At the time and for the purpose of making such computation, the amount of Bonds already retired in advance of the above mentioned schedule or schedules shall be deducted pro rata from the remaining amounts thereon.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Authority.

“Office” means the corporate trust office of the Trustee in Los Angeles, California, or at such other or additional offices as may be specified in writing to the Authority and the City except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the designated corporate trust office or agency of the Trustee.

“Original Purchaser” means the original purchaser of the Bonds upon their delivery by the Trustee on the Closing Date.

“Outstanding,” when used as of any particular time with reference to Bonds, means all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the Authority shall have been discharged in accordance with Section 10.03; and (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee pursuant to this Indenture.

“Owner,” when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Registration Books, being the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (hereinafter, the “USEPA”).

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein (the Trustee is entitled to conclusively rely upon a Written Request of the City directing investments as a certification to the Trustee that such investments are legal investments), but only to the extent that the same are acquired at fair market value:

(1) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series — “SLGS”)

(2) Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.

(3) Resolution Funding Corp. (“REFCORP”) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.

(4) Pre-refunded municipal bonds rated “Aaa” by Moody’s and “AA+” by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or “AA+” rated pre-refunded municipals to satisfy this condition.

(5) Obligations, debentures, notes or other evidence of indebtedness issued or fully and unconditionally guaranteed by any of the following: Federal Home Loan Bank System, Government National Mortgage Association, Farmer’s Home Administration, Federal Home Loan Mortgage Corporation or Federal Housing Administration; provided, that with respect to the funds and accounts established under this Indenture, such obligations shall at no time exceed an amount equal to ten percent (10%) of the aggregate principal amount of the Bonds Outstanding.

(6) Deposit accounts, including time deposits, trust accounts, demand deposits, trust funds, overnight bank deposits, interest bearing deposits, interest bearing money market accounts, certificates of deposit (including those placed by a third party pursuant to an agreement between the City and the Trustee and its affiliates) or savings accounts (i) fully insured by the Federal Deposit Insurance Corporation or (ii) with banks whose short

term obligations are rated no lower than A-1 by S&P and P-1 by Moody's, including those of the Trustee and its affiliates.

(7) Federal funds or banker's acceptances with a maximum term of one year of any bank that has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" by Moody's and "A-1" or "A" or better by S&P (including the Trustee and its affiliates).

(8) Repurchase obligations with a term not exceeding 30 days pursuant to a written agreement between the Trustee and either a primary dealer on the Federal Reserve reporting dealer list which falls under the jurisdiction of the Securities Investor Protection Corporation ("SIPC") or a federally chartered commercial bank whose long term debt obligations are rated A or better by S&P and Moody's, with respect to any security described in clause (1); provided, that the securities which are the subject of such repurchase obligation (i) must be free and clear of all liens, (ii) in the case of a SIPC dealer, were not acquired pursuant to a repurchase or reverse repurchase agreement, (iii) must be deposited with the Trustee and maintained through weekly market valuations in an amount equal to 104% of the invested funds plus accrued interest; and further provided that the Trustee must have a valid first perfected security interest in such securities.

(9) Taxable government money market portfolios that have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's consisting of securities issued or guaranteed as to payment of principal and interest by the full faith and credit of the United States, subject to a maximum permissible limit equal to six months of principal and interest on the Bonds, including those for which the Trustee or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise.

(10) Tax-exempt government money market portfolios that have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's consisting of securities which are rated in the highest Rating Categories of S&P and Moody's subject to a maximum permissible limit equal to six months of principal and interest on the Bonds including those for which the Trustee or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise.

(11) Money market mutual funds registered under the Investment Company Act of 1940, the shares in which are registered under the Securities Act of 1933 and that have a rating by S&P of AA-Am-G or AA-Am and rated in one of the two highest Rating Categories of Moody's, including those managed or advised by the Trustee or its affiliates or for which the Trustee or an affiliate of the Trustee serves as administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives and retains a fee for services provided to the fund, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(12) Commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from Moody's and S&P, of A1 and P1, respectively.

(13) Repurchase and reverse repurchase agreements collateralized with securities described in clause (1) of this definition, including those of the Trustee or any of its affiliates.

(14) The Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

(15) Investment agreements, including guaranteed investment contracts ("GICs") forward purchase agreements and reserve fund put agreements with banks or other financial institutions rated, or guaranteed by institutions rated, or with senior unsecured debt rated, by S&P or Moody's, in one of the three highest rating categories assigned by such agencies.

(16) Any other investments which meet the criteria established by applicable published investment guidelines issued by each rating agency then rating the Bonds.

Ratings of Permitted Investments referred to herein shall be determined at the time of purchase of such Permitted Investments and without regard to rating subcategories. The Trustee shall have no responsibility to monitor the ratings of Permitted Investments after the initial purchase of such Permitted Investments or the responsibility to validate the ratings of Permitted Investments prior to the initial purchase.

"Record Date" means, with respect to any Interest Payment Date, the fifteenth (15th) calendar day of the month preceding such Interest Payment Date.

"Redemption Fund" means the fund by that name established and held by the Trustee pursuant to Section 4.02(c).

"Registration Books" means the books maintained by the Trustee pursuant to Section 2.07 for the registration and transfer of ownership of the Bonds.

"Reserve Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.03.

"Reserve Requirement" means, as of any date of calculation by the City, the least of (i) ten percent (10%) of the original issue price of the Bonds (or, if there is less than 2% net original issue discount or premium, 10% of the original stated principal amount of the Bonds); (ii) 125% of average Annual Debt Service on the Bonds as of the Closing Date; or (iii) the Maximum Annual Debt Service on the Bonds.

"Responsible Officer" means any President, Managing Director, Vice President, Assistant Vice President, Treasurer, Assistant Treasurer, Assistant Secretary, Associate, Senior Associate or any other officer of the Trustee in the Office of the Trustee in Los Angeles, California (or any

successor corporate trust office) having regular responsibility for corporate trust matters and having direct responsibility for the administration of this Indenture.

“Revenue Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.02.

“Revenues” means (a) all amounts received by the Authority or the Trustee pursuant, or with respect, to the Installment Purchase Agreement, including, without limiting the generality of the foregoing, all of the Installment Payments (including both timely and delinquent payments, any late charges, and whether paid from any source), prepayments, insurance proceeds, and condemnation proceeds, but excluding any Additional Payments; (b) all moneys and amounts held in the funds and accounts established hereunder; and (c) investment income with respect to any moneys held by the Trustee hereunder.

“S&P” means S&P Global Ratings, a corporation organized and existing under the laws of the State of New York, its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Authority.

“Series 2022 Bonds” means the City of Oxnard Financing Authority Water Revenue Bonds, 2022 Series A (WIFIA Loan).

“State” means the State of California.

“Substantial Completion” means, with respect to the 2022 Project, the stage at which the 2022 Project is able to perform the functions for which the 2022 Project is designed.

“Substantial Completion Date” means the date on which the City certifies to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender and notice to the WIFIA Lender in accordance with Part E of Schedule V (*Reporting Requirements*) of the WIFIA Loan Agreement, that Substantial Completion has occurred.

“Supplemental Indenture” means any indenture, agreement, resolution or other instrument hereafter duly adopted or executed in accordance with the provisions of Section 7.01 of this Indenture.

“Trustee” means Computershare Trust Company, N.A., appointed by the Authority to act as trustee hereunder pursuant to Section 6.01, and its assigns or any other corporation or association which may at any time be substituted in its place, as provided in Section 6.01.

“WIFIA Interest Rate” has the meaning ascribed to such term in Part C of Schedule I (WIFIA Loan Specific Term) of the WIFIA Loan Agreement.

“WIFIA Lender” means the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency.

“WIFIA Loan Agreement” means the WIFIA Loan Agreement, dated as of _____, 2022, among the City, the Authority and the WIFIA Lender.

“WIFIA Loan Amortization Schedule” means the loan amortization schedule reflected in Schedule VI (WIFIA Loan Amortization Schedule), as amended from time to time in accordance with Section 8(c) (Adjustments to WIFIA Loan Amortization Schedule) of the WIFIA Loan Agreement.

“2022 Project” means any additions, betterments, extensions or improvements to the Water System, the design, acquisition or construction of which (together with the incidental costs and expenses related thereto) is to be financed by the proceeds of any Bonds or any Contracts, that may include improvements to both the water treatment (i.e. filter control replacement system, new clarifier and filter system, raw water reservoir improvements, vehicle and equipment replacement and storage tank repairs) and water distribution (i.e. water pipeline replacement, water distribution expansion and storage tank improvements).

“Written Certificate”, “Written Request” and “Written Requisition” of the Authority or the City mean, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

SECTION 1.02. Rules of Construction. All references in this Indenture to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 1.03. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract among the Authority, the City, the Trustee and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS

SECTION 2.01. Authorization of Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that, as of the date of issuance of the Bonds, all things, conditions, and acts required by law to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized, pursuant to the Bond Law and each and every

requirement of law, to issue the Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the Bonds pursuant to the Bond Law and this Indenture.

SECTION 2.02. Terms of Bonds. (a) The Bonds authorized to be issued by the Authority under and subject to the Bond Law and the terms of this Indenture shall be designated the “City of Oxnard Financing Authority Water Revenue Bonds, Series 2022A (WIFIA Loan)” and shall be issued in the original principal amount of \$ _____.

(b) The Series 2022 Bonds shall be issued in fully registered form without coupons in denominations of [\$1,000,000] or any integral multiple of \$1.00 in excess thereof, shall be dated the Closing Date, shall mature on the earliest of (a) June 1, 2061; (b) the date on which the maturity of the WIFIA Loan has been accelerated or subject to mandatory redemption or prepayment (as the case may be); or (c) the June 1 immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

(c) Interest on the Bonds shall be payable at the WIFIA Interest Rate; provided, that, upon the occurrence of an Event of Default, the Authority shall pay interest on the Bonds Outstanding at the Default Rate, (a) in the case of an Event of Default described in Section 8.01(a) hereof, from (and including) its due date to (but excluding) the date of actual payment of the Debt Service on the Bonds then outstanding and accrued interest thereon and (b) in the case of any other Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of the date on which (i) such Event of Default has been cured (if applicable) in accordance with the terms of this Indenture and the WIFIA Loan Agreement or waived by the WIFIA Lender and (ii) the remaining Bonds Outstanding have been irrevocably paid in full in immediately available funds. Interest shall (x) accrue on the Bonds commencing on the date of the first disbursement of the proceeds under the WIFIA Loan Agreement, (y) be payable commencing on the Debt Service Payment Commencement Date and (z) be computed on the principal amount of Bonds Outstanding on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Interest on the Bonds shall be payable in Dollars and in immediately available funds (without counterclaim, offset or deduction) in accordance with the payment instructions provided by the WIFIA Lender prior to the relevant Interest Payment Date, as may be modified in writing from time to time by the WIFIA Lender; provided, that the failure to provide updated payment instructions shall not affect in any manner the Authority’s obligations hereunder or under any other WIFIA Loan Document.

SECTION 2.03. Redemption of Bonds.

(a) Redemption from Prepayments of Installment Payments. The Series 2022 Bonds may be redeemed without penalty or premium, (i) in full on any date or (ii) in part on any Interest Payment Date (and, if in part, the amounts thereof to be prepaid shall be determined by the City; provided, that such redemption shall be in principal amounts of [\$1,000,000] or any integral multiple of \$1.00 in excess thereof), in each case from time to time but not more than once annually.

(b) Mandatory Sinking Fund Redemption. The Series 2022 Bonds are also subject to redemption prior to their stated maturity, on June 1 in each year, commencing June 1, 20__, in part

by lot, from mandatory Sinking Fund payments at a redemption price equal to the principal amount thereof, plus accrued interest, if any, to the redemption date, without premium, as set forth below in the aggregate respective principal amounts and on the respective dates as set forth in the following table, which shall match the WIFIA Loan Amortization Schedule; provided, however, that if some but not all of such Series 2022 Bonds have been redeemed pursuant to redemption provisions in paragraph (b) of this Section, then the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of such Series 2022 Bonds so redeemed, to be allocated among such sinking fund payments in the manner determined in subparagraph (d) hereof in integral multiples of \$5,000. The City shall provide the Trustee with a revised sinking fund schedule.

Schedule of Mandatory Sinking Fund Redemptions

Redemption Date (<u>June 1</u>)	Principal <u>Amount</u>
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⁽¹⁾ Maturity.

(c) Notice of Redemption. Each redemption hereunder shall be made on such date and in such principal amount as shall be specified by the City in a Written Request of the City and delivered to the Authority, the Trustee and the WIFIA Lender not less than thirty (30) days prior to the requested date of prepayment, unless otherwise agreed by the WIFIA Lender.

(d) Manner of Redemption. Upon the WIFIA Lender's receipt of confirmation that payment in full in immediately available funds of all Bonds Outstanding (the entire WIFIA Loan Balance) and any unpaid interest, fees and expenses with respect thereto has occurred as a result of a redemption, the WIFIA Lender shall surrender the Bonds to the Authority or its authorized representative, by mail in accordance with Section 35 (Notices) of the WIFIA Loan Agreement. If the Authority redeems part of Bonds Outstanding, then the WIFIA Lender may make a notation on the WIFIA Loan Amortization Schedule indicating the amount of principal of and interest on the Bonds and the WIFIA Loan then being prepaid. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on an updated WIFIA Loan Amortization Schedule shall be conclusive evidence thereof; provided, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Authority's obligations hereunder or under any other WIFIA Loan Document. All partial prepayments of principal shall be applied to reduce the Outstanding Bonds and WIFIA Loan Balance such that the remaining scheduled principal payments for the Bonds and WIFIA Loan set out in the WIFIA Loan Amortization

Schedule are reduced in inverse order of maturity or, at the election of the City evidenced by a written request of the City filed with the WIFIA Lender at least thirty (30) days prior to the date of redemption, on a pro rata basis (provided that, in any event, the Debt Service on the Bonds following such redemption shall be equal in time and amount to the unpaid payments due under the Installment Purchase Agreement). If such funds have not been so paid on the prepayment date, such principal amount of the Bonds and WIFIA Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6 (Interest Rate) of the WIFIA Loan Agreement.

(e) Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of the same series and maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(f) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. All Bonds redeemed pursuant to this Section shall be canceled and shall be destroyed by the Trustee.

SECTION 2.04. Forms of Bonds. The Series 2022 Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the form set forth in Exhibit A attached to the WIFIA Loan Agreement and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

SECTION 2.05. Execution of Bonds. The Bonds shall be signed in the name and on behalf of the Authority with the manual or facsimile signature of its President and attested by the manual or facsimile signature of its Secretary. The Bonds shall then be delivered to the Trustee for authentication by it. In case any officer who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the Authority, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though the individual who signed the same had continued to be such officer of the Authority. Also, any Bond may be signed on behalf of the Authority by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer.

Only those Bonds that bear thereon a certificate of authentication in substantially the forms set forth in Exhibit A to the WIFIA Loan Agreement, manually or electronically executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.06. Transfer and Exchange of Bonds.

(a) Transfer of Bonds. The Bonds shall not be transferable except as provided in Section 37 of the WIFIA Loan Agreement. The registration of any Bond may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation at the Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the Trustee shall execute and deliver a new Bond or Bonds of the same series, maturity, interest rate and aggregate principal amount, in any authorized denominations. The Authority shall pay all costs of the Trustee incurred in connection with any such transfer, except that the Trustee may require the payment by the Bond Owner of any tax or other governmental charge required to be paid with respect to such transfer.

(b) Exchange of Bonds. Bonds may be exchanged at the Office of the Trustee, for a like aggregate principal amount of Bonds of other authorized denominations of the same series, interest rate and maturity. The Authority shall pay all costs of the Trustee incurred in connection with any such exchange, except that the Trustee may require the payment by the Bond Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

(c) Limitations on Transfer or Exchange. The Trustee may refuse to transfer or exchange either (i) any Bond during the period established by the Trustee for the selection of Bonds for redemption pursuant to Section 2.03, or (ii) the portion of any Bond which the Trustee has selected for redemption pursuant to the provisions of Section 2.03.

SECTION 2.07. Registration Books. The Trustee will keep or cause to be kept, at its Office, sufficient records for the registration and transfer of the Bonds, which shall at all times during normal business hours, and upon reasonable notice, be open to inspection by the City and the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Bonds as hereinbefore provided.

SECTION 2.08. Issuance in Temporary Form. The Bonds may be issued initially in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority and be registered and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

SECTION 2.09. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like series, tenor and authorized denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it and delivered to, or upon the order of, the Authority. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity for the Authority and the Trustee satisfactory to the Trustee shall be given (subject to Section 6.14 hereof), the Authority, at the expense of the Bond Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like maturity and tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity for the Authority and the Trustee satisfactory to the Trustee, subject to Section 6.14 hereof). The Authority may require payment of a reasonable fee for each new Bond issued under this Section and of the expenses which may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the Authority whether or not the Bond alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

SECTION 2.10. Designation of Owner; Limited Obligation. The Bonds shall be initially executed, authenticated and delivered in the form of a separate single fully registered Bond (which may be typewritten) for each of the maturities of the Bonds. Upon initial execution, authentication and delivery, the ownership of each such global Bond shall be registered in the name of the WIFIA Lender.

The Trustee shall pay all principal of, premium, if any, and interest on, the Bonds only to or upon the order of the respective Bond Owners, as shown in the Bond Register kept by the Trustee, or their respective attorneys duly authorized in writing, and all such payments shall be valid hereunder with respect to payment of principal of, premium, if any, and interest on, the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner, as shown in the Bond Register, shall receive a Bond evidencing the obligation to make payments of principal of, premium, if any, and interest on, such Bond pursuant to this Indenture.

ARTICLE III

ISSUANCE OF BONDS AND APPLICATION OF PROCEEDS

SECTION 3.01. Issuance of Bonds. Upon the execution and delivery of this Indenture, the Authority shall execute and deliver Series 2022 Bonds in the aggregate principal amount of \$_____, and shall deliver the Bonds to the Trustee for authentication and delivery to the Original Purchaser upon the Written Request of the Authority.

SECTION 3.02. [Reserved].

SECTION 3.03. Reserve Fund. (a) There is hereby created a separate fund to be known as the “Reserve Fund,” which shall be held in trust by the Trustee. An amount equal to the Reserve Requirement shall be maintained in the Reserve Fund at all times from and after the final disbursement of the WIFIA Loan, subject to the provisions of Section 4.02(b), and any deficiency therein shall be replenished from the first available Revenues pursuant to Section 4.02(b).

(b) Moneys in the Reserve Fund shall be used solely for the purpose of paying the principal of and interest on the Bonds, including the redemption price of the Bonds coming due and payable by operation of mandatory sinking fund redemption pursuant to Section 2.03(c), if the moneys in the Bond Payment Fund are insufficient therefor. If the amount on deposit in the Bond Payment Fund on any date is insufficient to enable the Trustee to pay in full the aggregate amount of principal of and interest on the Bonds coming due and payable, including the redemption price of the Bonds coming due and payable by operation of mandatory sinking fund redemption pursuant to Section 2.03(c), the Trustee shall withdraw the amount of such insufficiency from the Reserve Fund and transfer such amount to the Bond Payment Fund.

(c) If the amount on deposit in the Reserve Fund exceeds the Reserve Requirement on the fifteenth (15th) calendar day of the month preceding any Interest Payment Date, the amount of such excess shall be withdrawn therefrom by the Trustee and transferred to the Bond Payment Fund and credited against the Installment Payment or Installment Payments next due from the City.

SECTION 3.04. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be affected in any way by any proceedings taken by the Authority or the Trustee with respect to or in connection with the Installment Purchase Agreement and the recital contained in the Bonds that the same are issued pursuant to the Bond Law shall be conclusive evidence of their validity and of the regularity of their issuance.

ARTICLE IV

REVENUES; FLOW OF FUNDS

SECTION 4.01. Collateral Assignment of Revenues and of the Installment Purchase Agreement. The Authority hereby assigns to the Trustee, on behalf of the Owners, as additional security for its obligations hereunder, all of the Authority’s right, title and interest to and in the Revenues and all of the right, title and interest (but none of the obligations) of the Authority in the Installment Purchase Agreement (other than the rights of the Authority under Sections 8.03 and 11.14 thereof and the Authority’s rights to give consents and approvals thereunder, including, without limitation, to amendments thereof); provided, that should the Authority well and truly pay or cause to be paid the principal of the Bonds with interest thereon in accordance with the terms thereof, and perform all other obligations of the Authority hereunder, then such assignment shall cease, determine and become void and the Trustee shall acknowledge and deliver to the Authority such instruments of satisfaction or release thereof as may reasonably be prepared and requested by or on behalf of the Authority. Subject to Section 4.03, all Revenues the Trustee collects and receives shall be applied to the payment of principal of and interest and premium (if any) on the Bonds equally, without priority for series, issue, number or date, in accordance with the terms hereof. So long as any of the Bonds are Outstanding, the Revenues and such moneys shall not be

used for any other purpose; except that a portion of the Revenues may be used for purposes as expressly permitted by Section 4.02 hereof.

The assignment under this section to the Trustee is solely in the Trustee's capacity as Trustee under this Indenture and the duties, powers and liabilities of the Trustee in acting pursuant to such assignment shall be subject to the provisions of this Indenture, including, without limitation, the provisions of Article VI hereof. The Trustee shall not be responsible for any representations, warranties, covenants or obligations of the Authority.

SECTION 4.02. Receipt, Deposit and Application of Revenues. Except as provided in Section 4.03 hereof with regard to the deposit of earnings on investments, all of the Revenues shall be deposited by the Trustee immediately upon receipt in the Revenue Fund (which the Trustee shall establish and hold in trust hereunder) or as otherwise instructed by the City. Amounts in the Revenue Fund shall be applied solely for the uses and purposes set forth herein. The Trustee shall withdraw amounts on deposit in the Revenue Fund and apply such amounts at the times and for the purposes, and in the priority, as follows:

(a) Bond Payment Fund. On or before each Interest Payment Date, so long as any Bonds remain Outstanding hereunder, the Trustee shall withdraw from the Revenue Fund and deposit into the Bond Payment Fund (which the Trustee shall establish and hold in trust hereunder) an amount which, together with other available amounts then on deposit in the Bond Payment Fund, is at least equal to the sum of (i) the aggregate amount of principal of and interest coming due and payable on the Bonds on such Interest Payment Date, (ii) the principal amount Bonds maturing on such Interest Payment Date, and (iii) the redemption price of the Term Bonds coming due and payable on such Interest Payment Date by operation of mandatory sinking fund redemption pursuant to Section 2.03(c).

Amounts in the Bond Payment Fund shall be applied by the Trustee solely for the purpose of paying the principal of and interest on the Outstanding Bonds when and as such principal and interest becomes due and payable (including accrued interest on any Bonds purchased or redeemed pursuant hereto), and for the purpose of paying the principal of the Term Bonds at the maturity thereof or upon the mandatory sinking fund redemption thereof pursuant to Section 2.03(c).

If after all of the Bonds have been paid or deemed to have been paid, there are moneys remaining in the Bond Payment Fund, such moneys shall be transferred by the Trustee to the City, after the payment of any outstanding fees and expenses of the Trustee.

(b) Reserve Fund. If the amount on deposit in the Reserve Fund at any time falls below the Reserve Requirement, the Trustee shall promptly notify the City and the Authority of such fact and, subject to Section 9.02(a) hereof, the Trustee shall promptly (i) withdraw the amount of such insufficiency from available Revenues on deposit in the Revenue Fund, and (ii) transfer such amount to the Reserve Fund. No deposit need be made in the Reserve Fund so long as the balance therein or credited thereto at least equals the Reserve Requirement.

(c) Redemption Fund. The Trustee shall deposit into the Redemption Fund all amounts required to redeem any Bonds which are subject to redemption pursuant to Sections 2.03(a) and (b) when and as such amounts become available. Amounts in the Redemption Fund shall be applied

by the Trustee solely for the purpose of paying the redemption price of Bonds to be redeemed pursuant to Sections 2.03(a) and (b). Following any redemption of all of the Bonds, any moneys remaining in the Redemption Fund shall be transferred by the Trustee to the City.

SECTION 4.03. Investments. All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture shall be invested by the Trustee solely in Permitted Investments, as directed pursuant to the Written Request of the City filed with the Trustee at least two (2) Business Days in advance of the making of such investments. In the absence of any such directions from the City, the Trustee shall hold such moneys uninvested. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the fund or account from which such investment was made. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee or any of its affiliates may act as sponsor, principal or agent in the acquisition or disposition of any investment. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section. The Trustee may rely conclusively upon the investment direction of the City as to the suitability and legality of the directed investments.

The Trustee may sell, or present for prepayment, any Permitted Investment so purchased by the Trustee whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from any such Permitted Investment.

The Authority (and the City by its execution of the Installment Purchase Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority or the City the right to receive brokerage confirmations of security transactions as they occur, at no additional cost, the Authority and the City specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Authority and the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

SECTION 4.04. Acquisition, Disposition and Valuation of Investments.

(a) Except as otherwise provided in subsection (b) of this Section, all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds shall be acquired and disposed of at fair market value.

(b) Except as required pursuant to Section 5.07 hereof, the fair market value of the investments held pursuant to this Indenture shall be determined as follows: “Value”, which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows: (a) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times); the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination; (b) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times; the average bid price at such time of determination for such investments by any two nationally recognized government

securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; (c) as to certificates of deposit and bankers acceptances; the face amount thereof, plus accrued interest; and (d) as to any investment not specified above; the value thereof established by prior agreement between the Authority and the Trustee.

Notwithstanding anything to the contrary herein, in making any valuations of investments hereunder, the Trustee has no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the Authority in any Written Certificate or Written Request of the Authority. Trustee shall be deemed to have complied with such valuation through use of its automated pricing service as reflected on its trust accounting statements.

ARTICLE V

COVENANTS OF THE AUTHORITY; SPECIAL TAX COVENANTS

SECTION 5.01. Punctual Payment; Compliance With Documents. The Authority shall punctually pay or cause to be paid the interest and principal to become due with respect to all of the Bonds in strict conformity with the terms of the Bonds and of this Indenture, and will faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and all Supplemental Indentures.

SECTION 5.02. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section 5.02 shall be deemed to limit the right of the Authority to issue bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

SECTION 5.03. Against Encumbrances. The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds is Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, and reserves the right to issue other obligations for such purposes.

SECTION 5.04. Power to Issue Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues and other assets purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VI and to the extent permitted by law, defend, preserve and

protect such pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

SECTION 5.05. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of Bonds, the Revenues, the Installment Purchase Agreement, and all funds and accounts held by the Trustee under this Indenture. Such books of record and account shall be available for inspection by the Authority, the City, and the Bond Owners during business hours and under reasonable circumstances with reasonable notice.

SECTION 5.06. No Additional Obligations. The Authority covenants that no additional bonds, notes or other indebtedness shall be issued or incurred which are payable out of the Revenues in whole or in part, to that end, the Authority shall not without the prior written consent of the WIFIA Lender issue or incur obligations of any kind payable from, secured or supported by any of the Pledged Collateral, as defined in the WIFIA Loan Agreement, and amounts to be held in any fund or account established hereunder or the right, title and interest of the Authority in the Installment Purchase Agreement, assigned to the Trustee hereunder.

SECTION 5.07. Installment Purchase Agreement. The Trustee shall promptly collect all amounts due from the City pursuant to the Installment Purchase Agreement. Subject to the provisions of Article VI, the Trustee may enforce, and take all steps, actions and proceedings which the Trustee determines to be reasonably necessary for the enforcement of all of its rights thereunder as assignee of the Authority and for the enforcement of all of the obligations of the City under the Installment Purchase Agreement with respect to the timely collection of the Installment Payments.

SECTION 5.08. Waiver of Laws. The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the Authority to the extent permitted by law.

SECTION 5.09. Further Assurances. The Authority will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Trustee and Owners of the Bonds the rights and benefits provided in this Indenture.

SECTION 5.10. Reporting Requirements. The City and the Authority hereby agree to comply with each of the reporting requirements set out in Schedule V (*Reporting Requirements*) of the WIFIA Loan Agreement, unless otherwise agreed or waived by the WIFIA Lender in writing.

ARTICLE VI

THE TRUSTEE

SECTION 6.01. Appointment of Trustee. Computershare Trust Company, N.A., a national banking association organized and existing under and by virtue of the laws of the United States of America, is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority agrees that it will maintain a Trustee having a combined capital and surplus of at least One Hundred Million Dollars (\$100,000,000), and subject to supervision or examination by federal or State authority, so long as any Bonds are Outstanding. If such bank, national banking association or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section 6.01 the combined capital and surplus of such bank, national banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

SECTION 6.02. Payment of Bonds; Registration Books. The Trustee is hereby authorized to pay the Bonds when duly presented for payment at maturity, or on redemption or purchase prior to maturity, and to cancel all Bonds upon payment thereof. The Trustee shall keep accurate records of all funds administered by it and of all Bonds paid and discharged. The Trustee will keep or cause to be kept at its Office sufficient books for the registration and transfer of the Bonds, which shall at all times during regular business hours upon reasonable notice be open to inspection by the City and the Authority. Upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, as provided in this Indenture with respect to the Bonds.

SECTION 6.03. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. Prior to the time that an Event of Default hereunder has occurred or after the curing of all Events of Default which may have occurred, the Trustee shall perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or duties shall be read into this Indenture against the Trustee. In case an Event of Default hereunder has occurred (which has not been cured or waived) the Trustee may exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall have no liability for the actions of any such attorney, agent or receiver chosen with reasonable care, and the Trustee shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder. The Trustee shall not be liable for any action taken or not taken in reliance upon advice or opinion of such counsel.

(c) The Trustee shall not be responsible for any recital herein, or in the Bonds, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and the Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority hereunder. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with the City's investment direction or as otherwise provided in this Indenture.

(d) The Trustee shall not be accountable for the use of any proceeds of sale of the Bonds delivered hereunder. The Trustee may become the Owner of Bonds secured hereby with the same rights which it would have if not the Trustee; may acquire and dispose of other bonds or evidence of indebtedness of the Authority with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in principal amount of the Bonds then Outstanding.

(e) In the absence of bad faith on its part, the Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, requisition, facsimile transmission, electronic mail or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith and without negligence pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at his request unless the ownership of such Bond by such person shall be reflected on the Registration Books.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Written Certificate of the City or a Written Certificate of the Authority as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default hereunder of which the Trustee has been given notice or is deemed to have notice, as provided in Section 6.03(h) hereof, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a Written Certificate of the Authority to the effect that an authorization in the form therein set forth has been adopted by the Authority, as conclusive evidence that such authorization has been duly adopted and is in full force and effect.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents. In acting under the Installment Purchase Agreement or any other document executed in connection herewith or therewith, the Trustee shall have the same rights, protections and indemnities as afforded to it hereunder.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder or under the Installment Purchase Agreement, except failure by the City to make any of the payments to the Trustee required to be made by the City pursuant to the Installment Purchase Agreement, or failure by the Authority to file with the Trustee any document required by this Indenture to be so filed subsequent to the issuance of the Bonds by a certain date, unless a Responsible Officer of the Trustee shall be specifically notified in writing of such default by the Owners of at least twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding and all notices or other instruments required by this Indenture or under the Installment Purchase Agreement to be delivered to the Trustee must, to be effective, be delivered at the Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder or thereunder except as aforesaid.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right (but not the duty) fully to inspect the Water System, all books, papers and records of the City or the Authority pertaining to the Water System and the Bonds, and to take such memoranda from and with regard thereto as may be desired but which is not privileged by statute or by law.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds.

(k) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable for the purpose of establishing the right of the Authority to the execution of any Bonds, or the right of the City or the Authority to the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Section 8.03 or any other actions besides making payments of principal of and interest on the Bonds (subject, however, to Section 6.14 hereof), the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any such action.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(n) No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder. The Trustee shall provide the Authority and the City with seven days' notice prior to making any advance of its own funds hereunder (which it is in no event required to do), and, if the City or the

Authority does not provide moneys in the amount needed, the Trustee shall be entitled to interest on the amounts advanced at a rate equal to its prime rate then in effect; provided that no such prior notice shall need be given and such interest on amounts advanced shall accrue from the date of any such advance following the occurrence of an Event of Default hereunder.

(o) The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(p) The Trustee shall not be liable for any action taken or not taken by it in accordance with the direction of a majority (or other percentage provided for herein) in aggregate principal amount of the Bonds outstanding relating to the exercise of any right, power or remedy available to the Trustee.

(q) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, pandemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

(r) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

(s) Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the City, and such certificate shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

(t) The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

(u) The Trustee may consult with counsel, who may or may not be counsel to the City, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith.

(v) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions (“Instructions”) given pursuant to this Indenture and delivered using Electronic Means (“Electronic Means” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Authority and City shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (“Authorized Officers”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority and City whenever a person is to be added or deleted from the listing. If the Authority and City elect to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Authority and City understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority and City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Authority and City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority and City. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority and City agree: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority and City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

SECTION 6.04. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all reasonable advances, reasonable counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services, but solely from Additional Payments made by the City under the Installment Purchase Agreement. Upon the occurrence of an Event of Default, the Trustee shall have a first lien with right of payment prior to payment of any Bond upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it respectively. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

SECTION 6.05. Notice to Bond Owners of Default. If an Event of Default hereunder occurs with respect to any Bonds, of which the Trustee has been given or is deemed to have notice,

as provided in Section 6.03(h), then the Trustee shall promptly give written notice thereof by first-class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice.

SECTION 6.06. Intervention by Trustee. In any judicial proceeding to which the Authority is a party which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of any of the Bonds, the Trustee may intervene on behalf of such Bond Owners, and subject to Section 6.03(l), shall do so if requested in writing by the Owners of a majority in aggregate principal amount of such Bonds then Outstanding.

SECTION 6.07. Removal of Trustee. The Owners of a majority in aggregate principal amount of the Outstanding Bonds, or the Authority (so long as no Event of Default has occurred or is continuing), may at any time upon thirty (30) days prior written notice remove the Trustee.

SECTION 6.08. Resignation by Trustee. The Trustee and any successor Trustee may at any time resign by giving written notice by registered or certified mail to the City and the Authority. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee in accordance with Section 6.09. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the successor Trustee shall mail notice thereof to the Bond Owners at their respective addresses set forth on the Registration Books.

SECTION 6.09. Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 6.06 or 6.07, respectively, the Authority shall promptly appoint a successor Trustee; provided that any such successor shall be a bank, national banking association or trust company meeting the requirements of Section 6.01. In the event the Authority shall for any reason whatsoever fail to appoint a successor Trustee within sixty (60) days following the delivery to the Trustee of the instrument described in Section 6.06 or within sixty (60) days following the receipt of notice by the Authority pursuant to Section 6.07, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 6.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the Authority purporting to appoint a successor Trustee following the expiration of such sixty (60) day period. Upon the acceptance by any successor Trustee of appointment as such, the successor Trustee shall cause notice thereof to be given by first class mail to the Bond Owners at their respective addresses set forth on the Registration Books.

SECTION 6.10. Merger or Consolidation. Any company into which the Trustee may be merged or converted or which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall be eligible under Section 6.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

SECTION 6.11. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Written Request of the Authority, or of its successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

SECTION 6.12. Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee. The following provisions of this Section 6.12 are adopted to these ends.

If the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

SECTION 6.13. Indemnification; Limited Liability of Trustee. The Authority further covenants and agrees to indemnify and save the Trustee and its officers, directors, agents and employees, harmless against any loss, costs, claims, expense (including, without limitation, legal fees and expenses), suits, actions, judgements and liabilities which it may incur arising out of or

in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability or enforcing its indemnification rights hereunder, but excluding any and all losses, costs, claims, expenses and liabilities which are finally determined to have been primarily caused by the negligence or willful misconduct of the Trustee, its officers, directors or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder or pursuant to the Installment Purchase Agreement. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of the Owners of a majority in aggregate principal amount of Bonds Outstanding relating to the time, method and place of conducting any proceeding or remedy available to the Trustee under this Indenture. The obligations of the Authority under this paragraph shall be payable solely from Additional Payments made by the City under the Installment Purchase Agreement and shall survive the resignation or removal of the Trustee under this Indenture or any defeasance of the Bonds. The Trustee's rights to immunities and protection from liability hereunder and its rights to payment of its fees and expenses shall survive its resignation or removal and final payment or defeasance of the Bonds. All indemnifications and releases from liability granted herein to the Trustee shall extend to the directors, officers, employees and agents of the Trustee.

The Trustee shall have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Bonds. Before taking any action under Article VIII or this Article at the request of the Owners, the Trustee may require that a satisfactory indemnity bond be furnished by the Owners for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

SECTION 6.14. No Indemnification by USEPA. In any circumstance in which USEPA (or any federal agency or instrumentality that may hold the Bonds from time to time) would otherwise be required to indemnify the Trustee pursuant to the terms of this Indenture, the Authority, to the extent permitted by law, shall instead indemnify the Trustee for any and all loss, cost, charge, expense (including legal fees), judgment or liability incurred by the Trustee and the Trustee shall not refuse to take any action or follow any instruction as a result of the Authority being obligated to indemnify the Trustee in lieu of USEPA or any such federal agency.

ARTICLE VII

MODIFICATION AND AMENDMENT OF THIS INDENTURE

SECTION 7.01. Amendment by Consent of Owner. This Indenture and the rights and obligations of the Authority and of the Owner may be modified or amended at any time by a Supplemental Indenture which shall become binding when the written consent of the Owner, exclusive of Bonds disqualified as provided in Section 7.02 hereof, are filed with the Trustee

SECTION 7.02. Disqualified Bonds. Bonds owned or held by or for the account of the City or the Authority (but excluding Bonds held in any employees' retirement fund) shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds in this article provided for, and shall not be entitled to consent to, or take any

other action in this article provided for, unless all of the Outstanding Bonds shall be owned or held by or for the account of the City or the Authority, provided however, that the Trustee shall not be deemed to have knowledge that any Bond is owned by the Authority or the City or for the account of the Authority or the City unless the Authority or the City is a Registered Owner or the Trustee has received written notice that any other Registered Owner is the owner of a Bond for the account of the City or Authority.

SECTION 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any action taken as hereinabove provided, the Authority may determine that the Bonds shall bear a notation, by endorsement in form approved by the Authority, as to such action, and in that case upon demand of the Owner of the Bonds Outstanding at such effective date and presentation of the Bond for that purpose at the Office of the Trustee, a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to the Owner's action shall be prepared and executed, and in that case upon demand of the Owner of the Bond Outstanding at such effective date such new Bonds shall be exchanged at the Office of the Trustee, without cost to the Owner, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

SECTION 7.04. Amendment by Mutual Consent. The provisions of this Article VII shall not prevent the Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS

SECTION 8.01. Events of Default and Acceleration of Maturities. The following events shall be Events of Default hereunder:

(a) Default in the due and punctual payment of the principal of any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for mandatory sinking fund redemption, by declaration or otherwise.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Default by the Authority in the observance of any of the other covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, if such default shall have continued for a period of thirty (30) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the City and the Authority by the Trustee; provided, however, that if in the reasonable opinion of the Authority the default stated in the notice (other than a default in the payment of any fees and expenses owing to the Trustee) can be corrected, but not within such thirty (30) day period, such default shall not constitute an Event of Default hereunder if the Authority shall commence to cure such default within such thirty (30) day period and thereafter diligently and in good faith cure such failure in a reasonable period of time, which period shall not be longer than one hundred eighty (180) days from the date of such default notice.

(d) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

(e) The occurrence and continuation of an Event of Default under and as defined in the Installment Purchase Agreement.

(f) The occurrence and continuation of an Event of Default under the WIFIA Loan Agreement.

Upon the occurrence and during the continuance of any Event of Default the Trustee may, and at the written direction of the Owner, the Trustee shall, declare the principal of all of the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Authority shall deposit with the Trustee a sum sufficient to pay all of the principal of and interest on the Bonds having come due prior to such declaration, with interest on such overdue principal and interest calculated at the net effective rate of interest per annum then borne by the Outstanding Bonds, and the reasonable fees and expenses of the Trustee, together with interest thereon at the prime rate of the Trustee then in effect, and any and all other defaults actually known to the Trustee (other than in the payment of the principal of and interest on the Bonds having come due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Trustee or the Owner may, by written notice to the Authority and to the Trustee, on behalf of the Owner, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 8.02. Application of Funds Upon Acceleration. All amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of this Indenture shall be applied by the Trustee in the following order upon presentation of the several Bonds, and the stamping thereon of the amount of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of reasonable fees, charges and expenses of the Trustee (including reasonable fees and disbursements of its counsel) incurred in and about the performance of its powers and duties under this Indenture;

Second, to the payment of the whole amount then owing and unpaid upon the Bonds for interest and principal, with interest on such overdue amounts to the extent permitted by

law at the net effective rate of interest then borne by the Outstanding Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such interest, principal and interest on overdue amounts without preference or priority among such interest, principal and interest on overdue amounts ratably to the aggregate of such interest, principal and interest on overdue amounts; and

Third, to any amounts owing the Owner to the extent not otherwise paid pursuant to Second above.

SECTION 8.03. Other Remedies: Rights of Bond Owner. Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy, in addition to the remedy specified in Section 8.01, at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Outstanding Bonds, and to enforce any rights of the Trustee under or with respect to this Indenture.

If an Event of Default shall have occurred and be continuing and if requested so to do by the Owner and indemnified as provided in Section 6.03(l), the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article VIII, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owner.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owner) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owner hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of the Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of the Owner thereof, or to authorize the Trustee to vote in respect of the claim of the Owner in any such proceeding without the approval of the Owners so affected.

SECTION 8.04. Power of Trustee to Control Proceeding. If the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owner, it shall have full power, in the exercise of its discretion for the best interests of the Owner, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owner opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation and the Trustee has been indemnified to its satisfaction (subject

to Section 6.14 hereof). Any suit, action or proceeding which the Owner of Bonds shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of the Owner similarly situated and the Trustee is hereby appointed (and the successive respective Owner issued hereunder, by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owner for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the Owner as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact.

SECTION 8.05. Appointment of Receivers. Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owner under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

SECTION 8.06. Non-Waiver. Nothing in this Article VIII or in any other provision of this Indenture, or in the Bonds, shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the interest on and principal of the Bonds to the Owner at the respective dates of maturity, as herein provided, out of the Revenues and other moneys herein pledged for such payment.

A waiver of any default or breach of duty or contract by the Trustee or the Owner shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Trustee or the Owner of any of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy conferred upon the Trustee or Owner by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owner, as the case may be.

SECTION 8.07. Rights and Remedies of Bond Owners. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, or the Installment Purchase Agreement, unless (a) the Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owner shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) subject to Section 6.14 hereof, the Owner shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request (which tender of indemnity shall be deemed to have been tendered upon the date of Owner's written notice pursuant to clause (b) above; (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee; and (e) the Trustee has not received any inconsistent direction during such 60-day period from the Owner.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by the Owner of Bonds of any remedy

hereunder; it being understood and intended that the Owner of Bonds shall not have any right in any manner whatever by his or their action to enforce any right under this Indenture or the Installment Purchase Agreement except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the benefit of the Owner.

The right of the Owner to receive payment of the principal of and interest and premium (if any) on such Bond as herein provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

SECTION 8.08. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority, the Trustee and the Owner shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. Limited Liability of Authority. Notwithstanding anything in this Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues or any Additional Revenues). The Authority may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues and other funds pledged hereunder as in this Indenture provided. The general fund of the Authority is not liable, and the credit of the Authority is not pledged, for the payment of the interest on or principal of the Bonds. The Owners of the Bonds shall never have the right to compel the forfeiture of any property of the Authority. The principal of and interest on the Bonds, and any premiums upon the redemption of any thereof, shall not be a debt of the Authority, or a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as in this Indenture provided.

SECTION 9.02. Benefits of Indenture Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the City, the Authority, the Trustee, and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and

on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee and the Owners of the Bonds.

SECTION 9.03. Discharge of Indenture. If the Authority shall pay and discharge each Outstanding Bond in any one or more of the following ways –

(a) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on such Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to this Indenture, is fully sufficient to pay such Bonds, including all principal, interest and redemption premiums; or

(c) by irrevocably depositing with the Trustee, in trust, Permitted Investments described in paragraph (1), (2) or (3) of the definition thereof in such amount as Bond Counsel or an Independent Accountant shall determine as evidenced by an opinion or report, respectively, delivered to the Trustee (the “Verification Report”) will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates; and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been mailed pursuant to Section 2.03(d) or provision satisfactory to the Trustee shall have been made for the mailing of such notice; then, at the election of the Authority, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the assignment of the Installment Purchase Agreement and pledge of the Revenues and other funds provided for in this Indenture securing its performance with respect to such Bonds, and all other pecuniary obligations of the Authority under this Indenture with respect to such Bonds, shall cease and terminate, except only the obligation of the Authority to pay or cause to be paid to the Owners of such Bonds not so surrendered and paid all sums due thereon from amounts set aside for such purpose as aforesaid, and all expenses and costs of the Trustee. Notice of such election shall be filed with the Trustee. Any funds thereafter held by the Trustee, which are not required for said purposes, shall be paid over to the City.

SECTION 9.04. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture or any Supplemental Indenture either the Authority is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions, with respect to the management, administration and control of the affairs of the Authority, that are presently vested in the Authority, and all the covenants, agreements and provisions contained in this Indenture by or on behalf of the Authority shall bind and inure to the benefit of its successors whether so expressed or not.

SECTION 9.05. Execution of Documents by Bond Owners. Any request, consent or other instrument required by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Bond Owners in person or by agent or agents duly appointed in writing. Proof of the

execution of any such request, consent or other instrument or of a writing appointing any such agent, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this Section 9.05. The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof. The ownership of Bonds shall be proved by the Registration Books. Any request, consent or vote of the Owner shall bind every future Owner with respect to the same Bond and the Owner with respect to any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in pursuance of such request, consent or vote. In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Owners upon such notice and in accordance with such rules and obligations as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

SECTION 9.06. Waiver of Personal Liability. No member of the Authority's Board of Directors or, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the interest on or principal of the Bonds; but nothing herein contained shall relieve any such officer, agent or employee from the performance of any official duty provided by law.

SECTION 9.07. Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Authority (or of the Trustee) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Indenture or of the Bonds; but the Bond Owners shall retain all rights and benefits accorded to them under the Bond Law or any other applicable provisions of law. The Authority hereby declares that it would have entered into this Indenture and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Indenture or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 9.08. Destruction of Canceled Bonds. Whenever in this Indenture provision is made for the surrender to the Authority of any Bonds which have been paid or canceled pursuant to the provisions of this Indenture, the Trustee shall destroy such Bonds and furnish to the Authority upon the Authority's Written Request a certificate of such destruction.

SECTION 9.09. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the accounting records of the Authority or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such records with respect to all such funds and accounts held by the Authority shall at all times be maintained in accordance with generally accepted accounting principles and all such records with respect to all

such funds and accounts held by the Trustee shall be at all times maintained in accordance with corporate trust industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

SECTION 9.10. Notices. All written notices to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) upon receipt after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Authority or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Authority: City of Oxnard Financing Authority
300 West Third Street
Oxnard, CA 93030
Attention: Executive Director

If to the City: City of Oxnard
300 West Third Street
Oxnard, CA 93030
Attention: City Manager

If to the Trustee: Computershare Trust Company, N.A.,
CTSO Mail Operations
Attention: Tracy Mason
MAC: N9300-070
600 South 4th Street, 7th Floor
Minneapolis, MN 55415

If to WIFIA Lender: Environmental Protection Agency
WJC-E 7334A
1200 Pennsylvania Avenue NW
Washington, D.C. 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

SECTION 9.11. Unclaimed Moneys. Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds which remain unclaimed for two (2) years after the date when such Bonds or interest thereon have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date, or for two (2) years after the date of deposit of such moneys if deposited with the Trustee after said date when such Bonds become due and payable, shall be repaid by the Trustee (without liability for interest) to the Authority, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Authority for the payment of such Bonds; provided, however, that before being required to make any such payment

to the Authority, the Trustee shall, at the Written Request of the Authority (and of its expense), cause to be mailed to the Owners of all such Bonds, at their respective addresses appearing on the Registration Books, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall not be less than thirty (30) days after the date of mailing of such notice, the balance of such moneys then unclaimed will be returned to the Authority.

SECTION 9.12. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

SECTION 9.13. Governing Law. This Indenture shall be governed by and construed in accordance with the laws of the State.

(Signature page follows)

IN WITNESS WHEREOF, the CITY OF OXNARD FINANCING AUTHORITY and the CITY OF OXNARD have caused this Indenture to be signed in their names by their respective authorized officers, and Computershare Trust Company, N.A., in token of its acceptance of the trust created hereunder, has caused this Indenture to be signed in its corporate name by its officer identified below, all as of the day and year first above written.

CITY OF OXNARD FINANCING
AUTHORITY

By: _____
Alexander Nguyen
Executive Director

CITY OF OXNARD

By: _____
Alexander Nguyen
City Manager

COMPUTERSHARE TRUST COMPANY,
N.A., as Trustee

By: _____
Authorized Officer

*-Signature Page-
Indenture of Trust*

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY

SECTION 1.01. Definitions	2
SECTION 1.02. Rules of Construction	9
SECTION 1.03. Equal Security	9

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS

SECTION 2.01. Authorization of Bonds.....	9
SECTION 2.02. Terms of Bonds.....	10
SECTION 2.03. Redemption of Bonds.	10
SECTION 2.04. Forms of Bonds.....	12
SECTION 2.05. Execution of Bonds.....	12
SECTION 2.06. Transfer and Exchange of Bonds.....	13
SECTION 2.07. Registration Books.....	13
SECTION 2.08. Issuance in Temporary Form	13
SECTION 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.....	14
SECTION 2.10. Designation of Owner; Limited Obligation	14

ARTICLE III

ISSUANCE OF BONDS AND APPLICATION OF PROCEEDS

SECTION 3.01. Issuance of Bonds	14
SECTION 3.02. [Reserved]	14
SECTION 3.03. Reserve Fund	15
SECTION 3.04. Validity of Bonds	15

ARTICLE IV

REVENUES; FLOW OF FUNDS

SECTION 4.01. Collateral Assignment of Revenues and of the Installment Purchase Agreement	15
SECTION 4.02. Receipt, Deposit and Application of Revenues	16
SECTION 4.03. Investments	17
SECTION 4.04. Acquisition, Disposition and Valuation of Investments.	17

TABLE OF CONTENTS
(continued)

Page

ARTICLE V
COVENANTS OF THE AUTHORITY; SPECIAL TAX COVENANTS

SECTION 5.01. Punctual Payment; Compliance With Documents	18
SECTION 5.02. Extension of Payment of Bonds	18
SECTION 5.03. Against Encumbrances	18
SECTION 5.04. Power to Issue Bonds and Make Pledge and Assignment	18
SECTION 5.05. Accounting Records and Financial Statements	19
SECTION 5.06. No Additional Obligations	19
SECTION 5.07. Installment Purchase Agreement	19
SECTION 5.08. Waiver of Laws	19
SECTION 5.09. Further Assurances	19
SECTION 5.10. Reporting Requirements	19

ARTICLE VI
THE TRUSTEE

SECTION 6.01. Appointment of Trustee	20
SECTION 6.02. Payment of Bonds; Registration Books	20
SECTION 6.03. Acceptance of Trusts	20
SECTION 6.04. Fees, Charges and Expenses of Trustee	24
SECTION 6.05. Notice to Bond Owners of Default	24
SECTION 6.06. Intervention by Trustee	25
SECTION 6.07. Removal of Trustee	25
SECTION 6.08. Resignation by Trustee	25
SECTION 6.09. Appointment of Successor Trustee	25
SECTION 6.10. Merger or Consolidation	25
SECTION 6.11. Concerning any Successor Trustee	26
SECTION 6.12. Appointment of Co-Trustee	26
SECTION 6.13. Indemnification; Limited Liability of Trustee	26
SECTION 6.14. No Indemnification by USEPA	27

ARTICLE VII
MODIFICATION AND AMENDMENT OF THIS INDENTURE

SECTION 7.01. Amendment by Consent of Owner	27
---	----

TABLE OF CONTENTS
(continued)

	Page
SECTION 7.02. Disqualified Bonds	27
SECTION 7.03. Endorsement or Replacement of Bonds After Amendment	28
SECTION 7.04. Amendment by Mutual Consent	28
 ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS	
SECTION 8.01. Events of Default and Acceleration of Maturities	28
SECTION 8.02. Application of Funds Upon Acceleration	29
SECTION 8.03. Other Remedies: Rights of Bond Owner	30
SECTION 8.04. Power of Trustee to Control Proceeding.....	30
SECTION 8.05. Appointment of Receivers	31
SECTION 8.06. Non-Waiver	31
SECTION 8.07. Rights and Remedies of Bond Owners	31
SECTION 8.08. Termination of Proceedings.....	32
 ARTICLE IX MISCELLANEOUS	
SECTION 9.01. Limited Liability of Authority	32
SECTION 9.02. Benefits of Indenture Limited to Parties.....	32
SECTION 9.03. Discharge of Indenture.....	33
SECTION 9.04. Successor Is Deemed Included in All References to Predecessor	33
SECTION 9.05. Execution of Documents by Bond Owners.....	33
SECTION 9.06. Waiver of Personal Liability.....	34
SECTION 9.07. Partial Invalidity	34
SECTION 9.08. Destruction of Canceled Bonds	34
SECTION 9.09. Funds and Accounts.....	34
SECTION 9.10. Notices	35
SECTION 9.11. Unclaimed Moneys	35
SECTION 9.12. Execution in Several Counterparts	36
SECTION 9.13. Governing Law	36
 EXHIBIT A – REQUISITION OF THE AUTHORITY	 A-1



Draft 04/19/2022
WIFIA CUSIP Number: []

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$48,265,202

With

THE CITY OF OXNARD

And

THE CITY OF OXNARD FINANCING AUTHORITY

For the

**THE AQUIFER STORAGE RECOVERY PROJECT
(WIFIA ID – N20107CA)**

Dated as of [], 2022

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions	2
Section 2. Interpretation	18
Section 3. WIFIA Loan Amount	20
Section 4. Disbursement Conditions	20
Section 5. Term	20
Section 6. Interest Rate	20
Section 7. Security and Priority; Flow of Funds.	21
Section 8. Repayments	21
Section 9. Prepayment	23
Section 10. Fees and Expenses	24
Section 11. Conditions Precedent	25
Section 12. Representations and Warranties of the Borrower	29
Section 13. Representations and Warranties of the City	33
Section 14. Representations and Warranties of WIFIA Lender	37
Section 15. Affirmative Covenants of the Borrower	38
Section 16. Negative Covenants of the Borrower	41
Section 17. Reporting Requirements	43
Section 18. Affirmative Covenants of the City	43
Section 19. Negative Covenants of the City	48
Section 20. Reporting Requirements	50
Section 21. Events of Default and Remedies	50
Section 22. Disclaimer of Warranty	53
Section 23. No Personal Recourse	53
Section 24. No Third-Party Rights	53
Section 25. Borrower's and City's Authorized Representatives	53
Section 26. WIFIA Lender's Authorized Representative	53
Section 27. Servicer	54
Section 28. Amendments, Waivers	54
Section 29. Governing Law	54
Section 30. Severability	54
Section 31. Successors and Assigns	54
Section 32. Remedies Not Exclusive	54
Section 33. Delay or Omission Not Waiver	55
Section 34. Counterparts	55
Section 35. Notices	55
Section 36. Indemnification	56
Section 37. Sale of WIFIA Loan	57
Section 38. Effectiveness	57
Section 39. Release of Lien	57
Section 40. Survival	57
Section 41. Integration	57

Schedules

SCHEDULE I – WIFIA Loan Specific Terms
SCHEDULE II – Project Details
SCHEDULE III-A – Borrower Disclosures
SCHEDULE III-B City Disclosures
SCHEDULE IV – Requisition Procedures
SCHEDULE V – Reporting Requirements
SCHEDULE VI – WIFIA Loan Amortization Schedule

Exhibits

EXHIBIT A – Form of WIFIA Bond
EXHIBIT B – Form of Closing Certificate
EXHIBIT C – Form of Public Benefits Report
EXHIBIT D – Form of Requisition
EXHIBIT E – Form of Certification of Eligible Project Costs
Documentation
EXHIBIT F – Form of Construction Monitoring Report
EXHIBIT G – Form of Certificate of Substantial Completion

Schedules

Exhibits

EXHIBIT H-1 – Opinions Required from General Counsel to the Borrower

EXHIBIT H-2 – Opinions Required from Bond Counsel to the Borrower

EXHIBIT H-4 – Opinions Required from General Council to the City

EXHIBIT H-5 – Opinions Required from Bond Counsel to the City

EXHIBIT I – Form of Certificate of Trustee

WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of the Effective Date, is by and between the Borrower (as defined herein), the City (as defined herein), and the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, an agency of the United States of America (“**EPA**”), acting by and through the Administrator of the Environmental Protection Agency (the “**Administrator**”), with an address at 1200 Pennsylvania Avenue NW, Washington, DC 20460 (the “**WIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America enacted the Water Infrastructure Finance and Innovation Act (“**WIFIA**”), § 5021 *et seq.* of Public Law 113-121 (as amended, and as may be further amended from time to time, the “**Act**”), which is codified as 33 U.S.C. §§ 3901-3914;

WHEREAS, the Act authorizes the WIFIA Lender to enter into agreements to provide financial assistance with one or more eligible entities to make secured loans with appropriate security features to finance a portion of the eligible costs of projects eligible for assistance;

WHEREAS, the Borrower was formed for the purpose of providing for the financing of public capital improvements for the members of the Borrower, including the City;

WHEREAS, the City has requested that the WIFIA Lender make the WIFIA Loan (as defined herein) to the Borrower in a principal amount not to exceed the Maximum Principal Amount (as defined herein) to be used to pay a portion of the Eligible Project Costs (as defined herein) pursuant to the Application (as defined herein);

WHEREAS, pursuant to the WIFIA Term Sheet (as defined herein), the Administrator has approved WIFIA financial assistance for the Project to be provided in the form of the WIFIA Loan, subject to the terms and conditions contained herein;

WHEREAS, based on the Application and the representations, warranties and covenants set forth herein, the WIFIA Lender proposes to make funding available to the Borrower for a portion of the costs of the Project through the issuance of the WIFIA Bond (as defined herein), upon the terms and conditions set forth herein;

WHEREAS, as of [____], 2022, the Borrower has entered into the Installment Purchase Agreement (as defined herein) with the City, pursuant to which (i) the Borrower agrees to purchase the Project from the City in exchange for the provision of funds, in the amount of the WIFIA Loan, and (ii) the City agrees to purchase the Project from the Borrower in exchange for the payment of Installment Payments (as defined herein) by the City to the Borrower, such payments being secured by the Revenues (as defined herein);

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the WIFIA Bond in accordance with the terms and provisions hereof and of the WIFIA Bond; and

WHEREAS, the WIFIA Lender has entered into this Agreement in reliance upon, among other things, the information and representations of the Borrower and the City set forth in the Application and the supporting information provided by the Borrower and the City.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the WIFIA Lender as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1. Definitions. Capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 or as otherwise defined in this Agreement, except as otherwise expressly provided herein. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

“**Act**” has the meaning provided in the recitals hereto.

“**Additional Bonds Test**” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“**Additional Construction Contract**” means, with respect to the Project, each Construction Contract entered into after the Effective Date.

“**Additional Obligations**” means Additional Senior Obligations and Additional Subordinated Obligations.

“**Additional Senior Obligations**” means any Senior Obligations permitted under Section 16(a) (*Indebtedness*), Section 19(a) (*Indebtedness*), and under the Installment Purchase Agreement, which Senior Obligations are issued or incurred after the Effective Date.

“**Additional Subordinated Obligations**” means any Subordinated Obligations permitted under Section 16(a) (*Indebtedness*), Section 19(a) (*Indebtedness*), and under the Installment Purchase Agreement, which Subordinated Obligations are issued or incurred after the Effective Date.

“**Administrator**” has the meaning provided in the preamble hereto.

“**Agreement**” has the meaning provided in the preamble hereto.

“**Application**” means the Borrower’s application for WIFIA financial assistance received by the WIFIA Lender on the Application Receipt Date.

“**Application Receipt Date**” has the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*).

“Bankruptcy Related Event” means, with respect to either the Borrower or the City, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of either the Borrower or the City or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for either the Borrower or the City or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; (b) either the Borrower or the City (other than with respect to clause (iii) below, which applies to the Borrower only) shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) fail to make a payment of WIFIA Debt Service in accordance with the provisions of Section 8 (*Repayments*) and such failure is not cured within thirty (30) days following notification by the WIFIA Lender of failure to make such payment, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief, in each case under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing; (c) (i) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Senior Obligations, or (ii) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Pledged Collateral in lieu of foreclosure; or (d) any receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official shall transfer, pursuant to directions issued by the holders of the Obligations, funds on deposit in any of the Water System Accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or an event of default under the Indenture Documents for application to the prepayment or repayment of any principal amount of the Senior Obligations other than in accordance with the provisions of the Indenture.

“Base Case Financial Model” means the financial model or plan, prepared by the City and delivered to the WIFIA Lender as part of the Application, forecasting the capital costs of the Water System (including the Project) and the estimated debt service coverage, rates, revenues, operating expenses and major maintenance requirements of the Water System (as may be applicable) for the Forecast Period and based upon assumptions and methodology provided by the City and acceptable to the WIFIA Lender as of the Effective Date, which model or plan shall have been provided to the WIFIA Lender as a fully functional Microsoft Excel-based financial model or such other format agreed with the WIFIA Lender.

“Bond Year” means any twelve-month period commencing on June 2 in a year an ending on the next succeeding June 1, both dates inclusive; except that the first Bond Year shall commence on the Effective Date and end on June 1, 20[].

“Borrower” has the meaning ascribed to such term in **Part A of Schedule I** (*Loan Specific Terms*).

“Borrower Fiscal Year” means (a) as of the Effective Date, the Initial Borrower Fiscal Year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the WIFIA Lender in accordance with **Part E of Schedule V** (*Reporting Requirements*).

“Borrower’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 25 (*Borrower’s and City’s Authorized Representatives*).

“Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the Federal Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, the Trustee Location or the Project Location.

“Capitalized Interest Period” has, if applicable, the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in **Schedule I**, means capitalized interest shall not be applicable with respect to the WIFIA Loan hereunder.

“City” has the meaning ascribed to such term in **Part A of Schedule I** (*Loan Specific Terms*).

“City Bonds” means all revenue bonds or notes of the City authorized, executed, issued, and delivered under and pursuant to the laws of the State, the payments of which are made from the Net Water System Revenues and which are on a parity with the Installment Payments. The term “City Bonds” includes, but is not limited to, obligations in the form of bonds, notes, bond anticipation notes and commercial paper.

“City Contracts” means the Installment Purchase Agreement and all contracts or leases of the City authorized and executed by the City under and pursuant to the laws of the State, installment or lease payments under which are payable from the Net Water System Revenues on a parity with the Installment Purchase Agreement.

“City Fiscal Year” means the period beginning on July 1 of each year and ending on the last day of June of the next succeeding year, or any other twelve-month period selected and designated as the official fiscal year of the City.

“City’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 25 (*Borrower’s and City’s Authorized Representatives*).

“Closing Certificate” has the meaning provided in Section 11(a) (*Conditions Precedent to Effectiveness*).

“Construction Contract” means, with respect to the Project, any prime contract entered into by the Borrower that involves any construction activity (such as demolition, site preparation, civil works construction, installation, remediation, refurbishment, rehabilitation, or removal and replacement services) for the Project. For the avoidance of doubt, **“Construction Contract”** shall include each Existing Construction Contract and, upon the effectiveness thereof, each Additional Construction Contract.

“Construction Monitoring Report” means a report on the status of the Project, substantially in the form of **Exhibit F** (*Form of Construction Monitoring Report*), unless otherwise agreed to be in a different form by the WIFIA Lender.¹

“Construction Period” means the period from the Effective Date through (and including) the end of the Federal Fiscal Year during which the Substantial Completion Date occurs.

“Construction Period Servicing Fee” has the meaning ascribed to such term in **Part F of Schedule I** (*WIFIA Loan Specific Terms*).

“Construction Schedule” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached hereto as **Part B of Schedule II** (*Project Details*), and (b) any updates thereto included in the Construction Monitoring Report most recently submitted to the WIFIA Lender in accordance with **Part C of Schedule V** (*Reporting Requirements*).

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted) or its successor, published by the Bureau of Labor Statistics and located at <https://www.bls.gov/news.release/cpi.t01.htm>.

“Debt Service” means, for any City Fiscal Year or other period, the sum of (i) the interest payable during such City Fiscal Year or 12-month period on all outstanding City Bonds, assuming that all outstanding serial City Bonds are retired as scheduled and that all outstanding term City Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any City Bonds), (ii) that portion of the principal amount of all outstanding serial City Bonds maturing on any principal payment date which falls in such City Fiscal Year or 12-month period, (iii) that portion of the principal amount of all outstanding term City Bonds required to be redeemed or paid on any redemption date which falls in such City Fiscal Year or 12-month period, and (iv) that portion of the Contract Payments (as defined in the Installment Purchase Agreement) required to be made in such City Fiscal Year or 12-month period (except to the extent such interest is capitalized). For purposes of calculating Debt Service, the following assumptions shall be used:

Provided that, as to any such City Bonds or Contract Payments (as defined in the Installment Purchase Agreement) bearing or comprising interest at other than a fixed rate, the

¹ **Note to Borrower:** The WIFIA Program has flexibility to accept the form of existing quarterly reports that the Borrower is already preparing, instead of the form in Exhibit F, so long as such other format provides sufficient reporting information required by the WIFIA Program.

rate of interest used to calculate Debt Service shall be the are set forth in the applicable Qualified Swap (as defined in the Installment Purchase Agreement) in effect with respect thereto, the greatest of (a) the annual interest rate on such City Bonds or Contract Payments (as defined in the Installment Purchase Agreement) on the date of calculation, or if the indebtedness is not yet outstanding, the initial interest rate (if established and binding), (b) if the City Bonds or City Contracts have been outstanding for at least twelve months, the average rate over the twelve calendar months immediately preceding the date of calculation, and (c) (i) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Internal Revenue Code of 1986, as amended, the most recently published Bond Buyer “Revenue Bond Index” (or comparable index if no longer published) plus 50 basis points, or (ii) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus 50 basis points; provided, however, that for purposes of any portion of Section 5.03 (Additional Obligations) and 6.10 (Amount of Rates and Charges, Operating Reserves) of the Installment Purchase Agreement, measuring actual debt service coverage during a test period, variable rate indebtedness shall be deemed to bear interest at the actual rate per annum applicable during the test period; and

Provided further that, if any series or issue of such City Bonds or Contract Payments (as defined in the Installment Purchase Agreement) have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Debt Service shall be determined for the City Fiscal Year or other 12-month period of determination as if the principal of and interest on such series or issue of such City Bonds or Contract Payments (as defined in the Installment Purchase Agreement) were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

Provided further that, as to any such City Bonds or Contract Payments (as defined in the Installment Purchase Agreement) or portions thereof bearing no interest but that are sold at a discount and which discount accretes with respect to such City Bonds or Contract Payments or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

Provided further that, the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the City Bonds or City Contracts for which such debt service reserve fund was established and in each preceding year until such amount is exhausted; and

Provided further that, Debt Service shall not include interest that is paid from investment earnings on amounts on deposit in the applicable Reserve Account (as defined in the Installment Purchase Agreement) and transferred to the Debt Service Fund (as defined in the Installment Purchase Agreement); and

Provided further that, for purposes of any portion of Sections 5.03 (Additional Obligations) and 6.10 (Amount of Rates and Charges, Operating Reserves) of the Installment Purchase Agreement measuring actual debt service coverage during a test period, Debt Service with respect to all City Bonds, Contract Payments (as defined in the Installment Purchase Agreement), and bonds issued by the Borrower secured by such Contract Payments (as defined

in the Installment Purchase Agreement) for which the City or the Borrower is entitled to receive Interest Subsidy Payments (as defined in the Installment Purchase Agreement) or any similar payments from the United States Department of the Treasury shall be determined net of all such Interest Subsidy Payments (as defined in the Installment Purchase Agreement) or similar payments from the United States Department of Treasury received or scheduled to be received by the City or the Borrower during such test period.

“Debt Service Payment Commencement Date” means the earlier to occur of (a) December 1, 2027; or (b) the Payment Date falling closest to, but not later than, the fifth anniversary of the first disbursement date of the WIFIA Loan (but in any event no later than five (5) years after the Substantial Completion Date of the Project).

“Default” means any event or condition that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” has the meaning ascribed to such term in **Part C of Schedule I (WIFIA Loan Specific Terms)**.

“Development Default” means (a) the City abandons work or fails, in the reasonable judgment of the WIFIA Lender, to diligently prosecute the work related to the Project or (b) the City fails to achieve Substantial Completion of the Project by the Development Default Date, unless such failure to achieve Substantial Completion shall occur by reason of an Uncontrollable Force that is not due to the fault or gross negligence of the City (and which the City could not reasonably have avoided or mitigated), in which case the Development Default Date shall be extended by the number of days equal to the duration of such Uncontrollable Force.

“Development Default Date” has the meaning ascribed to such term in **Part B of Schedule I (WIFIA Loan Specific Terms)**.

“Disbursement” means a disbursement of WIFIA Loan proceeds, subject to and in accordance with this Agreement.

“Dollars” and **“\$”** means the lawful currency of the U.S.

“Effective Date” means the date of this Agreement, as specified in **Part A of Schedule I (WIFIA Loan Specific Terms)**.

“Eligible Project Costs” means amounts in the Project Budget approved by the WIFIA Lender, which are paid by or for the account of the City in connection with the Project (including, as applicable, Project expenditures incurred prior to the receipt of WIFIA credit assistance), which shall arise from the following:

- (a) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;

- (b) construction, reconstruction, rehabilitation, and replacement activities;

(c) the acquisition of real property or an interest in real property (including water rights, land relating to the Project and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. §3905(8)), construction contingencies, and acquisition of equipment; or

(d) capitalized interest (with respect to Obligations other than the WIFIA Loan) necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction;

provided, that Eligible Project Costs must be consistent with all other applicable federal law, including the Act.

“Eligible Project Costs Documentation” means all supporting documentation with respect to the Eligible Project Costs, including copies of invoices and records evidencing incurred or previously paid Eligible Project Costs, which documentation should contain sufficient detail satisfactory to the WIFIA Lender (e.g. if the City (as agent of the Borrower) intends to utilize WIFIA Loan proceeds to make construction progress payments for Eligible Project Costs, the documentation should demonstrate that such progress payments are commensurate with the cost of the work that has been completed).

“EMMA” means the Electronic Municipal Market Access system as described in 1934 Act Release No. 59062 and maintained by the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)1 of the Securities Exchange Act of 1934, as amended, and its successors.

“EPA” has the meaning provided in the preamble hereto.

“Event of Default” has the meaning provided in Section 21(a) (*Events of Default and Remedies*).

“Event of Loss” means any event or series of events that causes any portion of the Water System to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a casualty, a failure of title, or any loss of such property through eminent domain.

“Existing Construction Contract” means each Construction Contract of the City in effect as of the Effective Date as set forth in **Part C of Schedule II** (*Project Details*).

“Existing Indebtedness” means indebtedness of, as applicable, (i) the Borrower that has been issued or incurred prior to the Effective Date, as listed and described in **Part A of Schedule III-A** (*Borrower Disclosures*) or (ii) the City that has been issued or incurred prior to the Effective Date, as listed and described in **Part A of Schedule III-B** (*City Disclosures*).

“Federal Fiscal Year” means the fiscal year of the Federal Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“Federal Government” means the U.S. and its departments and agencies.

“**FEIN**” means a Federal Employer Identification Number.

“**Final Disbursement Date**” means the earliest of (a) the date on which the WIFIA Loan has been disbursed in full; (b) the last anticipated date of disbursement set forth in the then-current WIFIA Loan Disbursement Schedule; (c) the date as of which the Borrower has certified to the WIFIA Lender that it will not request any further disbursements under the WIFIA Loan; (d) the date on which the WIFIA Lender terminates its obligations relating to disbursements of any undisbursed amounts of the WIFIA Loan in accordance with Section 21 (*Events of Default and Remedies*); and (e) the date that is one (1) year after the Substantial Completion Date.

“**Final Maturity Date**” has the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Terms*).

“**Financial Statements**” has the meaning provided in Section 12(q) (*Financial Statements*).

“**Flow of Funds**” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“**Forecast Period**” means, as of any date, the time period from and including the then-current City Fiscal Year until the later ending date of either (a) the five (5) immediately succeeding City Fiscal Years or (b) the end of the City Fiscal Year in which the City’s then-currently effective capital improvement plan for the Water System concludes.

“**GAAP**” means generally accepted accounting principles for U.S. state and local governments, as established by the Government Accounting Standards Board (or any successor entity with responsibility for establishing accounting rules for governmental entities), in effect from time to time in the U.S.

“**Governmental Approvals**” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, registrations, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the U.S. or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“**Indemnitee**” has the meaning provided in Section 36 (*Indemnification*).

“**Indenture**” has the meaning ascribed to such term in **Part E of Schedule I** (*WIFIA Loan Specific Terms*).

“Indenture Documents” means the Indenture, each Supplemental Indenture, the Installment Purchase Agreement, and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“Initial Borrower Fiscal Year” has the meaning ascribed to such term in **Part A of Schedule I** (*Loan Specific Terms*).

“Initial Construction Period Servicing Fee” has the meaning ascribed to such term in **Part F of Schedule I** (*WIFIA Loan Specific Terms*).

“Insolvency Laws” means the U.S. Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

“Installment Payments” means the payments required to be paid by the City pursuant to Section 4.02 of the Installment Purchase Agreement, including all prepayments thereof.

“Installment Purchase Agreement” has the meaning ascribed to such term in **Part A of Schedule I** (*Loan Specific Terms*).

“Interest Only Period” has, if applicable, the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in **Schedule I**, means no interest only period shall be applicable with respect to the WIFIA Loan hereunder.

“Interest Payment Date” has the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Terms*).

“Interim Financing” means interim bond anticipation notes, commercial paper or other short-term temporary financing, in each case with a maturity not later than five (5) years following the issuance or incurrence thereof, the proceeds of which are applied to pay Eligible Project Costs.

“Investment Grade Rating” means a rating of ‘BBB-’, ‘Baa3’, ‘bbb-’, or ‘BBB (low)’, or higher, from a Nationally Recognized Rating Agency.

“Legal Entity” has the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*).

“Lien” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“Loss Proceeds” means any proceeds of builders’ risk or casualty insurance (other than any proceeds from any policy of business interruption insurance insuring against loss of revenues

upon the occurrence of certain casualties or events covered by such policy of insurance) or proceeds of eminent domain proceedings resulting from any Event of Loss.

“Maintenance and Operation Costs” has the meaning in the Installment Purchase Agreement.

“Material Adverse Effect” means a material adverse effect on (a) the Water System, the Project or the Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower or the City, (c) the legality, validity or enforceability of any material provision of any Indenture Document or WIFIA Loan Document, (d) the ability of the Borrower or the City to enter into, perform or comply with any of its material obligations under any Indenture Document or WIFIA Loan Document, (e) the validity, enforceability or priority of the Liens provided under the Indenture Documents on the Pledged Collateral or (f) the WIFIA Lender’s rights or remedies available under any WIFIA Loan Document.

“Maximum Annual Debt Service” means, at any point in time, with respect to City Bond and City Contracts then outstanding, the largest amount of Debt Service on the City Bonds and City Contracts in the then current or any future Borrower Fiscal Year.

“Maximum Principal Amount” has the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Terms*).

“Nationally Recognized Rating Agency” means any nationally recognized statistical rating organization registered with, and identified as such by, the Securities and Exchange Commission.

“NEPA” means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

“NEPA Determination” has the meaning ascribed to such term in **Part B of Schedule I** (*WIFIA Loan Specific Terms*).

“Net Water System Revenues” means, (i) for any City Fiscal Year, the Water System Revenues for such City Fiscal Year, less Maintenance and Operation Costs for such City Fiscal Year, or (ii) in applying the provision of the Installment Purchase Agreement with respect to Additional Obligations only, the Water System Revenues for the selected 12-month period less the Maintenance and Operation Costs for the same 12-month period.

“Obligations” means debt of the Borrower that is secured by a pledge and lien on all or a portion of the Revenues, including the Senior Obligations and Subordinated Obligations.

“Operating Period Servicing Fee” has the meaning ascribed to such term in **Part F of Schedule I** (*WIFIA Loan Specific Terms*).

“Organizational Documents” means: (a) the constitutional and statutory provisions that are the basis for the existence and authority of the Borrower or the City, including any enabling statutes, ordinances or public charters and any other organic laws establishing the Borrower or

the City, as applicable, and (b) the resolutions, bylaws, or other organizational documents (including any amendments, modifications or supplements thereto) of or adopted by the Borrower or the City, as applicable, by which the Borrower or the City, as applicable, the Borrower's or the City's, as applicable, powers, operations or procedures or the Borrower's or the City's, as applicable, securities, bonds, notes or other obligations are governed or from which such powers are derived.

“Other Financing Documents” means any agreement, instrument, or document (excluding the Indenture Documents and the WIFIA Loan Documents) entered into between the Borrower and a holder of Obligations providing for the issuance of Obligations secured by a pledge and lien on all or a portion of the Net Water System Revenues.

“Outstanding” means (a) with respect to Obligations other than the WIFIA Loan, Obligations that have not been cancelled or legally defeased or discharged within the meaning of the Indenture, and (b) with respect to the WIFIA Loan, the (i) entire amount available to be drawn under this Agreement (including amounts drawn and amounts that remain available to be drawn), less (ii) any amount that has been irrevocably determined will not be drawn under this Agreement, less (iii) the aggregate principal amount of the WIFIA Loan Balance that has been repaid or prepaid.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, and all regulations promulgated thereunder.

“Payment Date” means each Interest Payment Date and each Principal Payment Date.

“Payment Default” has the meaning provided in Section 21(a)(i) (*Payment Default*).

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the WIFIA Loan;
- (c) Additional Senior Obligations that satisfy the requirements of Sections 16(a) (*Indebtedness*) and 19(a) (*Indebtedness*) and the Installment Purchase Agreement;
- (d) Additional Subordinated Obligations that satisfy the requirements of Sections 16(a) (*Indebtedness*) and 19(a) (*Indebtedness*) and the Installment Purchase Agreement; and
- (e) indebtedness incurred in respect of hedging transactions permitted under the Indenture and the WIFIA Loan Documents.

“Permitted Investments”, as applied to the Borrower, has the meaning set forth in the Indenture, and, as applied to the City, has the meaning set forth in the Installment Purchase Agreement.

“Permitted Liens” means:

- (a) Liens imposed pursuant to the Indenture;
- (b) Liens imposed pursuant to the Installment Purchase Agreement;
- (c) Liens on the Net Water System Revenues, including Net Water System Revenues on deposit in the Water System Revenue Fund, in favor of City Bonds and City Contracts;
- (d) Liens imposed by law, including Liens for taxes that are not yet due or are being contested in compliance with Section 15(j) (*Material Obligations*);
- (e) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 15(j) (*Material Obligations*);
- (f) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;
- (g) deposits to secure the performance of trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (h) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 21(a)(viii) (*Material Adverse Judgment*); and
- (i) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower.

“Person” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority, including in each case such Person’s successors and permitted assigns.

“Pledged Collateral” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“Principal Payment Date” has the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Terms*).

“Project” has the meaning ascribed to such term in **Part B of Schedule I** (*WIFIA Loan Specific Terms*).

“Project Budget” means the budget for the Project attached to this Agreement as **Part A of Schedule II** (*Project Details*) showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project.

“Project Location” has the meaning ascribed to such term in **Part B of Schedule I** (*Loan Specific Terms*).

“Projected Substantial Completion Date” has the meaning ascribed to such term in **Part B of Schedule I** (*WIFIA Loan Specific Terms*).

“Public Benefits Report” means the report, in the form attached hereto as **Exhibit C** (*Form of Public Benefits Report*).

“Rate Covenant” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“Related Documents” means the WIFIA Loan Documents, the Indenture Documents and the Other Financing Documents.

“Requisition” means the request for Disbursement in the form attached hereto as **Exhibit D** (*Form of Requisition*).

“Revenue Account” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“Revenues” has the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*).

“SAM” means the federal System for Award Management (www.SAM.gov) (or any successor system or registry).

“Sanctions Laws” means collectively, any applicable anti-drug trafficking, anti-terrorism, anti-money laundering, anti-bribery, or anti-corruption laws or regulations, as applicable, including those contained in the Bank Secrecy Act of 1970 (as amended) and the U.S. Patriot Act.

“Senior Obligations” means (a), as applied to the City, Existing Indebtedness that ranks *pari passu* in right of payment and right of security with the Installment Purchase Agreement, and (b) Additional Senior Obligations, in each case, that ranks senior in right of payment and right of security to the Subordinated Obligations.

“Servicer” means such entity or entities as the WIFIA Lender shall designate from time to time to perform, or assist the WIFIA Lender in performing, certain duties hereunder.

“Servicing Fee” means the Servicing Set-Up Fee and any Construction Period Servicing Fee or Operating Period Servicing Fee.

“Servicing Set-Up Fee” has the meaning ascribed to such term in **Part F of Schedule I** (*WIFIA Loan Specific Terms*).

“State” has the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*).

“Subordinated Obligations” means, as applied to the Borrower, any Obligation that is fully subordinated to the WIFIA Loan and the WIFIA Bond in priority of payment (as to both principal and interest), voting and priority of security interest in the Pledged Collateral, including with respect to payment from revenues and reserves and payment upon default or acceleration of any such Obligations and, as applied to the City, any Obligation that is fully subordinated to the Installment Purchase Agreement in priority of payment (as to both principal and interest) and priority of security interest in the Net Water System Revenues and the Water System Revenue Fund, including with respect to payment from revenues and reserves and payment upon default or acceleration of any such Obligations.

“Substantial Completion” means, with respect to the Project, the stage at which the Project is able to perform the functions for which the Project is designed.

“Substantial Completion Date” means the date on which the City certifies to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender and notice to the WIFIA Lender in accordance with **Part E of Schedule V** (*Reporting Requirements*), that Substantial Completion has occurred.

“Supplemental Indenture” means a supplement to or modification of the provisions of the Indenture entered into by the Borrower and the Trustee in accordance with the terms of the Indenture, authorizing the issuance of Additional Obligations or amending the terms of the Indenture.

“Technical and Rate Consultant” means a single individual or firm, or a combination of one or more individuals or firms, not related to the Borrower and considered independent with respect to the Borrower (i.e. not an employee of the Borrower or any affiliate of the Borrower) authorized to do business in and qualified to practice in the areas required to provide the services required of the Technical and Rate Consultant, that together have expertise in the technical requirements for operation and maintenance of systems similar in size and scope to the Water System and delivering the services provided by the Water System, and establishing rates and charges for governmental water or wastewater systems similar in size and scope to the Water System, selected by the Borrower and reasonably acceptable to the WIFIA Lender.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance and financing (including costs of issuance); (b) amounts, if any, required by the Indenture Documents or the WIFIA Loan Documents to be paid into any fund or account upon the incurrence of the WIFIA Loan or any other Obligations, in each case in respect of the Project; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) in respect of any indebtedness of the Borrower (other than

the WIFIA Loan), in each case in connection with the acquisition, design, construction and equipping of the Project; and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“**Trustee**” has, if applicable, the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in **Schedule I**, means a trustee shall not be applicable with respect to the WIFIA Loan hereunder.

“**Trustee Location**” has, if applicable, the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in **Schedule I**, means a trustee location shall not be applicable with respect to the WIFIA Loan hereunder.

“**UEI Number**” means, with respect to any Person, a number issued by the Federal Government (including through SAM.gov) as the unique entity identifier for such Person.

“**Uncontrollable Force**” means any cause beyond the control of the City, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, pandemic, or act of God (provided, that the City shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the City and the City does not control the administrative agency or governmental officer or body; provided, that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the City.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code, as in effect from time to time in the State.

“**Updated Financial Model/Plan**” means (a) an updated Base Case Financial Model or (b) a financial plan in a format agreed with the WIFIA Lender, in each case reflecting the then-current and projected conditions for the Forecast Period, in accordance with **Part A of Schedule V** (*Reporting Requirements*).

“**U.S.**” means the United States of America.

“**Water System**” has the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*).

“**Water System Accounts**” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“**Water System Revenue Fund**” has the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“Water System Revenues” means all income, rents, rates, fees, charges, and other moneys derived from the ownership of or operation of the Water System, including, without limiting the generality of the foregoing:

(a) all in lieu charges and groundwater augmentation charges (including investment earnings thereon) collected by or on behalf of the City;

(b) all income, rents, rates, fees, charges, business interruption insurance proceeds, or other moneys derived by the City from the sale, furnishing, and supplying of the water, drainage or other services, facilities, and commodities sold, furnished, or supplied through the facilities of or in the conduct or operation of the business of the Water System; and

(c) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, proceeds, or other moneys, including City reserves;

but excluding in all cases:

(i) customers’ deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City;

(ii) proceeds of taxes or benefit assessments restricted by law to be used by the City to pay amounts due on bonds or other obligations hereafter incurred; and

(iii) Connection fees and charges.

“WIFIA” has the meaning provided in the recitals hereto.

“WIFIA” has the meaning provided in the recitals hereto.

“WIFIA Bond” has, if applicable, the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in **Schedule I**, means a bond as evidence of the Borrower’s Obligation shall not be applicable with respect to the WIFIA Loan hereunder.

“WIFIA CUSIP Number” has the meaning ascribed to such term in **Part A of Schedule I** (*WIFIA Loan Specific Terms*).

“WIFIA Debt Service” means with respect to any Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the WIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, (a) as set forth on the WIFIA Loan Amortization Schedule and (b) due and payable on such Payment Date in accordance with the provisions of Section 8(a) (*Payment of WIFIA Debt Service*).

“WIFIA Debt Service Account” has, if applicable, the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in

Schedule I, means a separate debt service account designated for the WIFIA Lender shall not be applicable with respect to the WIFIA Loan hereunder.

“WIFIA Debt Service Reserve Account” has, if applicable, the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*), or if designated as “Not Applicable” in **Schedule I**, means a separate debt service reserve account designated for the WIFIA Lender shall not be applicable with respect to the WIFIA Loan hereunder.

“WIFIA Debt Service Reserve Requirement” has, if applicable, the meaning ascribed to such term in **Part D of Schedule I** (*WIFIA Loan Specific Terms*).

“WIFIA Interest Rate” has the meaning ascribed to such term in **Part C of Schedule I** (*WIFIA Loan Specific Term*).

“WIFIA Lender” has the meaning provided in the preamble hereto.

“WIFIA Lender’s Authorized Representative” means the Administrator and any other Person who shall be designated as such pursuant to Section 26 (*WIFIA Lender’s Authorized Representative*).

“WIFIA Loan” means the secured loan made by the WIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed the Maximum Principal Amount, to be used in respect of Eligible Project Costs.

“WIFIA Loan Amortization Schedule” means the loan amortization schedule reflected in **Schedule VI** (*WIFIA Loan Amortization Schedule*), as amended from time to time in accordance with Section 8(c) (*Adjustments to WIFIA Loan Amortization Schedule*).

“WIFIA Loan Balance” means (a) the aggregate principal amount of the WIFIA Loan disbursed by the WIFIA Lender to the Borrower hereunder, *plus* (b) if applicable, capitalized interest added to the principal balance of the WIFIA Loan pursuant to Section 8(a)(iii) (*Payments of WIFIA Debt Service*), *minus* (c) the aggregate principal amount of the WIFIA Loan repaid or prepaid by the Borrower, as reflected from time to time in the WIFIA Loan Amortization Schedule in accordance with Section 8(c) (*Adjustments to WIFIA Loan Amortization Schedule*).

“WIFIA Loan Disbursement Schedule” means the disbursement schedule set forth in **Schedule VI** (*WIFIA Loan Amortization Schedule*), reflecting the anticipated disbursement of proceeds of the WIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(b) (*Disbursement Conditions*).

“WIFIA Loan Documents” means this Agreement, the WIFIA Bond, and the other Indenture Documents.

“WIFIA Term Sheet” has the meaning ascribed to such term in **Part E of Schedule I** (*WIFIA Loan Specific Terms*).

Section 2. Interpretation. The rules of interpretation set forth below in this Section 2 shall apply to this Agreement, except as otherwise expressly provided herein.

(a) Unless the context shall otherwise require, the words “hereto,” “herein,” “hereof” and other words of similar import refer to this Agreement as a whole.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa.

(c) Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require.

(d) The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

(e) Whenever the Borrower’s knowledge or the City’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or the phrase “to the City’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or the City’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge or the best of the City’s knowledge, as applicable, after reasonable and diligent inquiry. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns.

(f) Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement.

(g) The recitals, schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement.

(h) The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions.

(i) Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time to time in accordance with the terms thereof and hereof.

(j) Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 35 (*Notices*) and signed by a duly authorized representative of such party.

(k) References to “disbursements of WIFIA Loan proceeds” or similar phrasing shall be construed as meaning the same thing as “paying the purchase price of the WIFIA Bond”.

(l) Whenever this Agreement requires a change in principal amount, interest rate or amortization schedule of the WIFIA Loan, it is intended that such change be reflected in the

WIFIA Bond. Whenever there is a prepayment of the WIFIA Loan, it is intended that such prepayment be implemented through a prepayment of the WIFIA Bond.

(m) Whenever this Agreement sets forth a time period for a number of days by when a deliverable must be provided or an action must be taken, such time period shall be computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months.

ARTICLE II THE WIFIA LOAN

Section 3. WIFIA Loan Amount. The principal amount of the WIFIA Loan shall not exceed the Maximum Principal Amount.

Section 4. Disbursement Conditions.

(a) WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower or the City in connection with the Project, including, for the avoidance of doubt, Eligible Project Costs that were initially funded with Interim Financing proceeds. Each Disbursement of the WIFIA Loan shall be made pursuant to the procedures of **Schedule IV** (*Requisition Procedures*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(b) (*Conditions Precedent to Disbursements*); provided, that no Disbursements shall be made after the Final Disbursement Date.

(b) Subject to this Section 4, any scheduled Disbursement (as reflected in the WIFIA Loan Disbursement Schedule) that remains undrawn as of its scheduled date shall automatically be available for the next scheduled Disbursement date, up to the Final Disbursement Date, with the effect of automatically updating the WIFIA Loan Disbursement Schedule (and the WIFIA Loan Amortization Schedule) without need for the WIFIA Lender's approval. The Borrower may also amend the WIFIA Loan Disbursement Schedule by submitting a revised version thereof to the WIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions. Such revised WIFIA Loan Disbursement Schedule shall become effective upon the WIFIA Lender's approval thereof, which approval shall be deemed granted if the WIFIA Lender has not objected within thirty (30) days from receipt of the revised schedule, and which approval shall have the effect of updating the WIFIA Loan Amortization Schedule to reflect the updated WIFIA Loan Disbursement Schedule. Notwithstanding the foregoing, the date of the first Disbursement shall not be earlier than the initial date of Disbursement set out in the WIFIA Loan Amortization Schedule as of the Effective Date.

Section 5. Term. The term of the WIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender hereunder have been irrevocably paid in full in immediately available funds.

Section 6. Interest Rate. The Borrower shall pay interest on the WIFIA Loan Balance at the WIFIA Interest Rate; provided, that, upon the occurrence of an Event of Default, the Borrower shall pay interest on the WIFIA Loan Balance at the Default Rate, (a) in the case of

any Payment Default, from (and including) its due date to (but excluding) the date of actual payment of the overdue amount of principal of the WIFIA Loan and accrued interest thereon and (b) in the case of any other Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of the date on which (i) such Event of Default has been cured (if applicable) in accordance with the terms of this Agreement or waived by the WIFIA Lender and (ii) the WIFIA Loan Balance has been irrevocably paid in full in immediately available funds. Interest shall (x) accrue on the WIFIA Loan commencing on the date of the first disbursement of the WIFIA Loan, (y) be payable commencing on the Debt Service Payment Commencement Date and (z) be computed on the WIFIA Loan Balance on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months.

Section 7. Security and Priority; Flow of Funds.

(a) Pursuant to the Installment Purchase Agreement, as security for the Installment Payments, the City has pledged, assigned and granted to the Borrower for its benefit, Liens on the Net Water System Revenues. The Installment Payments are and shall (i) be secured by the Liens on the Net Water System Revenues and (ii) not be subordinate in right of payment (other than with respect to Maintenance and Operation Costs) or in right of security to any Lien on the Net Water System Revenues for the benefit of any City Bond or City Contract.

(b) As security for the WIFIA Bond and the WIFIA Loan, the Borrower has pledged, assigned and granted to the Trustee for the benefit of the WIFIA Lender for its benefit, a senior priority Lien on the Pledged Collateral. The Lien on the Pledged Collateral to secure the WIFIA Loan for the benefit of the WIFIA Lender is and shall be (i) on a parity in right of payment and right of security to the Lien on the Pledged Collateral in favor of the Senior Obligations and (ii) senior in right of payment and right of security to the Lien on the Pledged Collateral in favor of the Subordinate Obligations. As evidence of the Borrower's obligation to repay the WIFIA Loan, the Borrower shall issue and deliver to the WIFIA Lender, as the registered owner, on or prior to the Effective Date, the WIFIA Bond. The WIFIA Bond shall be a Bond (as defined in the Indenture), entitled to all of the benefits of a Bond under the Indenture Documents.

(c) Amounts deposited in the Revenue Account shall be applied in the order of priority described in, and in accordance with, the Flow of Funds.

Section 8. Repayments.

(a) Payment of WIFIA Debt Service.

(i) No WIFIA Debt Service shall be due or payable prior to the Debt Service Payment Commencement Date. The Borrower shall pay (A) WIFIA Debt Service in the amounts and manner and on the Payment Dates as set forth in the WIFIA Loan Amortization Schedule, as the same may be revised pursuant to Section 8(c) (*Adjustments to WIFIA Loan Amortization Schedule*) and (B) payments of any other amounts on each other date on which payment thereof is required to be made hereunder; provided, that, in either case if any such date is not a Business Day, payment shall be

made on the next Business Day following such date. WIFIA Loan proceeds borrowed and repaid may not be reborrowed.

(ii) Notwithstanding anything herein to the contrary, the WIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date.

(iii) If a Capitalized Interest Period is applicable as set forth in **Part C of Schedule I (WIFIA Loan Specific Terms)**, during the Capitalized Interest Period, no payment of principal or interest on the WIFIA Loan will be required to be made. On each Interest Payment Date occurring during the Capitalized Interest Period (including the day immediately following the end of the Capitalized Interest Period), interest accrued and not paid on the WIFIA Loan during each such six (6) month period shall be capitalized and added to the WIFIA Loan Balance, as set forth in the WIFIA Loan Amortization Schedule. Within thirty (30) days after the end of the Capitalized Interest Period, the WIFIA Lender shall give written notice to the Borrower stating the WIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other WIFIA Loan Documents. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the Borrower by the WIFIA Lender that an Event of Default has occurred and that the WIFIA Lender is ending the Capitalized Interest Period, in which case interest shall no longer be capitalized, payments of interest shall be due and payable beginning on the next Interest Payment Date and payments of principal shall be due and payable beginning on the next Principal Payment Date, in each case in accordance with the terms hereof.

(iv) If an Interest Only Period is applicable as set forth in **Part C of Schedule I (WIFIA Loan Specific Terms)**, during the Interest Only Period, the WIFIA Debt Service payable by the Borrower shall consist of one hundred percent (100%) of the amount of interest then due and payable on the WIFIA Loan Balance, and no payment of principal on the WIFIA Loan will be due and payable during the Interest Only Period.

(v) Any defeasance of the WIFIA Loan pursuant to the Indenture and in accordance with applicable law shall not be deemed a repayment or prepayment of the WIFIA Loan in full, and the Borrower shall comply with all of its obligations hereunder and under the other WIFIA Loan Documents (other than with respect to payments of WIFIA Debt Service, which payments shall continue to be made in accordance with the WIFIA Loan Amortization Schedule by the succeeding entity assuming the Borrower's payment obligations), unless otherwise agreed by the WIFIA Lender, until the irrevocable payment in full in immediately available funds of the WIFIA Loan Balance, together with all accrued interest, fees and expenses with respect thereto.

(b) Manner of Payment. Payments under this Agreement (and the WIFIA Bond, which payments shall not be duplicative) shall be made in Dollars and in immediately available funds (without counterclaim, offset or deduction) in accordance with the payment

instructions provided by the WIFIA Lender prior to the relevant payment, as may be modified in writing from time to time by the WIFIA Lender; provided, that the failure to provide updated payment instructions shall not affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document.

(c) Adjustments to WIFIA Loan Amortization Schedule. The WIFIA Lender may, from time to time, modify the WIFIA Loan Amortization Schedule included in **Schedule VI** (*WIFIA Loan Amortization Schedule*) to reflect (A) any change to the WIFIA Loan Balance, (B) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower hereunder in accordance with this Agreement, (C) any mathematical corrections as the WIFIA Lender may determine are necessary, and (D) with the consent of the Borrower (not to be unreasonably withheld), such other information as the WIFIA Lender may determine is necessary for administering the WIFIA Loan and this Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Any adjustments or revisions to the WIFIA Loan Amortization Schedule as a result of a decrease in the WIFIA Loan Balance shall be applied to reduce future payments due on the WIFIA Loan in inverse order of maturity, other than prepayments which shall be applied in accordance with Section 9(b) (*General Prepayment Instructions*). If the WIFIA Loan Amortization Schedule is modified pursuant to this Section 8(c), the WIFIA Lender shall provide the Borrower with a copy of such revised WIFIA Loan Amortization Schedule, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents. The WIFIA Lender may also, from time to time or when so requested by the Borrower, advise the Borrower by written notice of the amount of the WIFIA Loan Balance as of the date of such notice. Absent manifest error, the WIFIA Lender's determination of the WIFIA Loan Balance and all matters as set forth on the WIFIA Loan Amortization Schedule shall be deemed conclusive evidence thereof absent manifest error; provided, that neither the failure to make any such determination, modification, or recordation nor any error in such determination, modification, or recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document.

Section 9. Prepayment.

(a) Optional Prepayments. The Borrower may prepay the WIFIA Loan, without penalty or premium, (i) in full on any date or (ii) in part on any Payment Date (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, that such prepayment shall be in principal amounts of \$[1,000,000] or any integral multiple of \$1.00 in excess thereof), in each case from time to time but not more than once annually in accordance with 33 U.S.C. § 3908(c)(4)(A). The Borrower may make such prepayment by paying to the WIFIA Lender such principal amount of the WIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment and all fees and expenses then due and payable to the WIFIA Lender. Each prepayment of the WIFIA Loan pursuant to this Section 9(a) shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice, signed by the Borrower's Authorized Representative and delivered to the WIFIA Lender not less than thirty (30) days prior to the requested date of prepayment, unless otherwise agreed by the WIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written

notice to the WIFIA Lender. Anything in this Section 9(a) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(b) General Prepayment Instructions. Upon the WIFIA Lender's receipt of confirmation that payment in full in immediately available funds of the entire WIFIA Loan Balance and any unpaid interest, fees and expenses with respect thereto has occurred as a result of a prepayment, the WIFIA Lender shall surrender the WIFIA Bond to the Borrower or its authorized representative, by mail in accordance with Section 35 (*Notices*) or as otherwise agreed between the parties hereto. If the Borrower prepays only part of the unpaid balance of principal of the WIFIA Loan, the WIFIA Lender may make a notation on the WIFIA Loan Amortization Schedule indicating the amount of principal of and interest on the WIFIA Loan then being prepaid. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on an updated WIFIA Loan Amortization Schedule shall be conclusive evidence thereof; provided, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. All partial prepayments of principal shall be applied to reduce the WIFIA Loan Balance such that the remaining scheduled principal payments for the WIFIA Loan set out in the WIFIA Loan Amortization Schedule are reduced in inverse order of maturity or, at the election of the City evidenced by a written request of the City filed with the WIFIA Lender at least thirty (30) days prior to the date of prepayment, on a pro rata basis (provided that, in any event, the WIFIA Debt Service following such prepayment shall be equal in time and amount to the unpaid payments due under the Installment Purchase Agreement). If such funds have not been so paid on the prepayment date, such principal amount of the WIFIA Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

(c) [Reserved]

Section 10. Fees and Expenses.

(a) Fees. The Borrower shall pay to the WIFIA Lender:

(i) the Servicing Set-Up Fee, which shall be due and payable within thirty (30) days after receipt by the Borrower of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the date of the first Disbursement of the WIFIA Loan);

(ii) the Construction Period Servicing Fee, which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15 during the period beginning from the Effective Date through (and including) the end of the Federal Fiscal Year during which the Substantial Completion Date occurs; provided, that the Initial Construction Period Servicing Fee shall be due and payable within thirty (30) days after receipt by the Borrower of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the date of the first Disbursement of the WIFIA Loan); and

(iii) the Operating Period Servicing Fee, which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or

prior to each November 15, beginning with the first November 15 following the end of the Federal Fiscal Year during which the Substantial Completion Date occurs, until (and including) the Final Maturity Date; provided, that the Operating Period Servicing Fee due and payable with respect to the Federal Fiscal Year during which the Final Maturity Date occurs shall be equal to the *pro-rata* monthly portion of the then applicable Operating Period Servicing Fee multiplied by the number of partial or whole months remaining between October 1 and the Final Maturity Date.

(b) The amount of each Construction Period Servicing Fee (other than the initial Construction Period Servicing Fee) and each Operating Period Servicing Fee shall be adjusted in proportion to the percentage change in CPI for the calendar year immediately preceding the calendar year during which such fee is due. The WIFIA Lender shall notify the Borrower of the amount of each such fee at least thirty (30) days before payment is due, which determination shall be conclusive absent manifest error.

(c) Expenses. The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the WIFIA Lender on demand from time to time, within thirty (30) days after receipt by the Borrower of any invoice from the WIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other WIFIA Loan Documents and the transactions hereby and thereby contemplated, including attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with: (i) the enforcement of or attempt to enforce, or the monitoring, protection or preservation of any right or claim under, the Liens on the Pledged Collateral or any provision of this Agreement or any of the other WIFIA Loan Documents or the rights of the WIFIA Lender thereunder; (ii) any amendment, modification, re-execution, waiver, or consent with respect to this Agreement or any other WIFIA Loan Document; and (iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents, including during the pendency of any Event of Default.

(d) The obligations of the Borrower under this Section 10 shall survive the payment or prepayment in full or transfer of the WIFIA Bond, the enforcement of any provision of this Agreement or the other WIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

ARTICLE III CONDITIONS PRECEDENT

Section 11. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The Borrower and the City shall each have duly executed and delivered to the WIFIA Lender this Agreement, and the Borrower shall have duly executed and delivered to the WIFIA Lender the WIFIA Bond, each in form and substance satisfactory to the WIFIA Lender.

(ii) The Borrower and the City shall have delivered to the WIFIA Lender complete and fully executed copies of (A) the Indenture, together with any amendments, supplements, waivers or modifications thereto (but excluding any document that solely provides for the issuance or incurrence of Additional Obligations, hedging Obligations or Interim Financing) and (B) any Related Document with respect to which all or a portion of the proceeds or payments thereof are or will be applied to fund all or any portion of Total Project Costs, in each case that has been entered into on or prior to the Effective Date, along with a certification in the Closing Certificate that each such document is complete, fully executed and in full force and effect, and that all conditions contained in the Related Documents that are necessary to the closing of the WIFIA transaction contemplated hereby (if any) have been fulfilled.

(iii) The City shall have delivered to the WIFIA Lender fully executed copies of each Existing Construction Contract, together with any amendments, waivers or modifications thereto.

(iv) Counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-1** (*Opinions Required from Counsel to the Borrower*)) and bond counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-2** (*Opinions Required from Bond Counsel to the Borrower*)). Counsel to the City shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-3** (*Opinions Required from Counsel to the City*)) and bond counsel to the City shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-4** (*Opinions Required from Bond Counsel to the City*)).

(v) The Borrower and the City shall each have delivered to the WIFIA Lender a certificate, signed by the Borrower's or the City's Authorized Representative, as applicable, substantially in the form attached hereto as **Exhibit B-1** (*Form of Borrower Closing Certificate*) and **Exhibit B-2** (*Form of City Closing Certificate*), as applicable, (each a "**Closing Certificate**"), designating the Borrower's Authorized Representative or the City's Authorized Representative, as applicable, confirming such person's position and incumbency, and certifying as to the satisfaction of the certain conditions precedent (and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such satisfaction), including the following:

(A) as of the Effective Date, (1) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other

credit assistance provided under the Act to the Borrower and the City, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs; (2) the aggregate amount of Eligible Project Costs previously incurred prior to the Effective Date does not exceed fifty-one percent (51%) of Eligible Project Costs; and (3) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;

(B) the City is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project;

(C) the Borrower and the City each have (1) obtained a FEIN (as evidenced by the delivery of a copy of the Borrower's and the City's W-9, as applicable), (2) obtained a UEI Number, and (3) registered with, and obtained confirmation of active SAM registration status;

(D) the Borrower has obtained the WIFIA CUSIP Number;

(E) the representations and warranties of the Borrower and the City set forth in this Agreement and in each other WIFIA Loan Document to which the Borrower or the City is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(F) no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the date of the Application.

(vi) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction, prior to the Effective Date, of the assignment by at least one (1) Nationally Recognized Rating Agency of a public Investment Grade Rating on the WIFIA Loan, along with a certification in the Closing Certificate that no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(vii) The Borrower and the City shall each have delivered to the WIFIA Lender the Public Benefits Report.

(viii) The Borrower shall have paid in full all invoices delivered by the WIFIA Lender to the Borrower as of the Effective Date for any applicable Servicing Fees and the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes hereof.

(b) Conditions Precedent to Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender shall have no obligation to make any Disbursement of the WIFIA Loan to the Borrower (including the initial Disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The Borrower and the City shall have delivered to the WIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*), **Schedule IV** (*Requisition Procedures*) and **Exhibit D** (*Form of Requisition*), including satisfactory Eligible Project Costs Documentation relating to such Requisition. The Borrower's Authorized Representative shall also certify in such Requisition that:

(A) at the time of, and immediately after giving effect to, any Disbursement of WIFIA Loan proceeds then currently requested, (1) no Default or Event of Default and no event of default under any other Related Document has occurred and is continuing and (2) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any other Related Document, has occurred and is continuing;

(B) no Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, has occurred since the Effective Date;

(C) the aggregate amount of all Disbursements (including the requested Disbursement amount but excluding any interest that is capitalized in accordance with the terms hereof) does not exceed (1) the maximum principal amount of the WIFIA Loan or (2) the amount of Eligible Project Costs paid or incurred by the Borrower and the City;

(D) the Eligible Project Costs for which reimbursement or payment is being requested has not been reimbursed or paid by any previous disbursement of (1) WIFIA Loan proceeds or (2) any other source of funding for the Project as identified in the Project Budget;

(E) (1) the Borrower, the City, and each of the City's contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products); and (2) supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender;

(F) the representations and warranties of the Borrower and the City set forth in this Agreement and in each other WIFIA Loan Document are true and correct as of each date on which any disbursement of the WIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties are true and correct as of such earlier date); and

(G) the Borrower and the City each represent that they have delivered all required deliverables under and in compliance with the requirements of **Schedule V** (*Reporting Requirements*), except as has been otherwise agreed by the WIFIA Lender; and

(H) the amount being requested for Disbursement is with respect to Eligible Project Costs for which all or a portion of the Eligible Project Costs Documentation was previously submitted to and approved by the WIFIA Lender in accordance with **Schedule IV** (*Requisition Procedures*) and **Schedule V** (*Reporting Requirements*) of the WIFIA Loan Agreement, and/or the Borrower or the City has set out in the Requisition (or attached separately to the Requisition) a summary of any Eligible Project Costs that have not otherwise been previously submitted to the WIFIA Lender for approval, together with supporting Eligible Project Costs Documentation.

(ii) If applicable, to the extent necessary to make the representations and warranties in Section 12(f) (*Litigation*) and 12(j)(iii) (*Compliance with Laws*) true, correct and complete as of the date of the applicable Disbursement, the Borrower shall have delivered an updated **Schedule III-A** (*Borrower Disclosures*) and the City shall have delivered an updated **Schedule III-B** (*City Disclosures*).

(iii) The Borrower or the City shall have paid in full (A) any outstanding Servicing Fees due and payable under Section 10 (*Fees and Expenses*) and (B) all invoices delivered by the WIFIA Lender to the Borrower or the City, for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes hereof.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of the Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 12(b) (*Officers' Authorization*) and the first sentence of Section 12(m) (*Construction Contracts*), as of each date on which any Disbursement of the WIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a Legal Entity duly organized and validly existing under its Organizational Documents and the laws of the State, has

full legal right, power and authority to do business in the State and to enter into the WIFIA Loan Documents then in existence, to execute and deliver this Agreement and the WIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of this Agreement, the WIFIA Bond, and the other WIFIA Loan Documents. Other than such Organizational Documents, Resolution No. [] of the Board of Directors of the City of Oxnard Financing Authority adopted on [], 2022, and the Indenture Documents, there are no additional instruments or documents necessary for the Borrower to execute and deliver, or to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing (or that previously executed) the WIFIA Loan Documents, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the WIFIA Loan Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party, has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable against the Borrower in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the WIFIA Loan Documents to which the Borrower is a party, the consummation of the transactions contemplated by the WIFIA Loan Documents, and the fulfillment of or compliance with the terms and conditions of all of the WIFIA Loan Documents, do not and will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, other than Permitted Liens described in clause (a) of the definition thereof.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any obligations of the Borrower, or of any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents to which it is a party, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by any of the Related Documents to which the Borrower is a party, or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of any of the Related Documents to which the Borrower

is a party, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed. The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Borrower Material Adverse Effect.

(f) Litigation. Except as set forth in **Part B of Schedule III-A (Borrower Disclosures)**, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against the Borrower or affecting the ability of the Borrower to execute, deliver and perform its obligations under the WIFIA Loan Documents or that in any case could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture Documents [and the Organizational Documents together] establish and the Borrower has taken all necessary action to pledge, assign, and grant, in each case for the benefit of the WIFIA Lender, legal, valid, binding and enforceable Liens on the Pledged Collateral purported to be created, pledged, assigned, and granted pursuant to and in accordance with the Indenture Documents, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act, and if applicable, the security interests created in the Pledged Collateral have been duly perfected under applicable State law. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Pledged Collateral except for the Liens arising by operation of law, and not *pari passu* with any Liens on the Pledged Collateral. The Borrower is not in breach of any covenant set forth in Section 15(b) (*Securing Liens*) or in the Indenture Documents with respect to the matters described in Section 15(b) (*Securing Liens*). As of the Effective Date and as of each other date this representation and warranty is made, (A) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable and, if applicable, perfected, Lien on the Pledged Collateral in favor of the Trustee (for the benefit of the WIFIA Lender) to the extent contemplated by the Indenture Documents, and (B) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, validity, enforceability, priority or, if applicable, perfection, of the security interest in the Pledged Collateral granted pursuant to the Indenture Documents is governed by Article 9 of the UCC. Neither the attachment, validity, enforceability or priority of the security interest in the Pledged Collateral is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. § 1532.995) (i) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters, (ii) is presently indicted for or otherwise criminally or civilly charged by a Governmental Authority with commission of any of the offenses listed in 2 C.F.R. § 180 or 2 C.F.R. § 1532; and (iii) have,

within the three (3) year period preceding the Effective Date, (x) been convicted for or had a civil judgment rendered against the Borrower for any of the offenses within such period or (y) had any public transactions (federal, state or local) terminated for cause or default.

(i) No Lobbying. Pursuant to 31 U.S.C. §1352, to the best of the Borrower's knowledge and belief, (A) no Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any Person for influencing or attempting to influence an officer or employee of an agency, a member (or employee of a member), officer, or employee of the U.S. Congress, in connection with the making of the WIFIA Loan, execution (including amendments or modifications) of the WIFIA Loan Documents, or any other federal action under 31 U.S.C. §1352(a)(2); and (B) if any funds other than Federal appropriated funds have been paid or will be paid to any Person for influencing or attempting to influence an officer or employee of any agency, a member (or employee of a member), officer, or employee of the U.S. Congress in connection with the WIFIA Loan, the Borrower has completed and submitted to the WIFIA Lender Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(j) Compliance with Laws.

(i) The Borrower has complied with all applicable laws, rules, regulations and requirements.

(ii) The Borrower has complied with all applicable laws, rules, regulations and requirements.

(k) Credit Ratings. The WIFIA Loan has received a public Investment Grade Rating from at least one (1) Nationally Recognized Rating Agency, written evidence of such rating has been provided to the WIFIA Lender prior to the Effective Date, and such rating has not been reduced, withdrawn or suspended as of the Effective Date.

(l) No Defaults. No Default or Event of Default, and no default or event of default by the Borrower under any other Related Document, has occurred and is continuing.

(m) Information. The information furnished by, or on behalf of, the Borrower to the WIFIA Lender, when taken as a whole, is true and correct in all material respects (other than for projections and other forward-looking statements contained in the Base Case Financial Model and any Updated Financial Model/Plan which have been made in good faith and based on reasonable assumptions) and does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading as of the date made or furnished.

(n) Insurance. The Borrower is in compliance with all insurance obligations required under each Related Document to which the Borrower is a party (including Section 15(f) (*Insurance*) hereof) as of the date on which this representation and warranty is made. To the extent the Borrower self-insures, the Borrower's self-insurance program is actuarially sound.

(o) No Prohibited Liens. Except for Permitted Liens described in clause (a) of the definition thereof, the Borrower has not created, and is not under any obligation to create,

and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Pledged Collateral, or the Borrower's respective rights in the foregoing.

(p) Financial Statements. Each income statement, balance sheet and statement of operations and cash flows (collectively, "**Financial Statements**") delivered to the WIFIA Lender pursuant to **Part B of Schedule V** (*Reporting Requirements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition (including any liabilities or obligations that are required to be disclosed in accordance with GAAP) of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein.

(q) Securities Laws. Under existing law, the WIFIA Bond may be issued and sold without registration under the Securities Act of 1933, as amended, and any State blue sky laws, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(r) No Delinquent Taxes or Federal Debt. The Borrower has paid all applicable taxes and other material taxes and assessments payable by it that have become due (other than those taxes or assessments that it is contesting in good faith and by appropriate proceedings, for which adequate reserves have been established to the extent required by GAAP). The Borrower has no delinquent federal debt (including tax liabilities but excluding any delinquencies that have been resolved with the appropriate federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996).

(s) Sovereign Immunity. The Borrower either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the Borrower under any of the WIFIA Loan Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder, or, to the extent that the Borrower has such immunity, the Borrower has waived such immunity pursuant to Section 15(m) (*Immunity*).

(t) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other WIFIA Loan Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

Section 13. Representations and Warranties of the City. The City hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 12(b) (*Officers' Authorization*) and the first sentence of Section 12(m) (*Construction Contracts*), as of each date on which any Disbursement of the WIFIA Loan is requested or made:

(a) Organization; Power and Authority. The City is a general law city and municipal corporation duly organized and validly existing under and by virtue of the laws of the

State, has full legal right, power and authority to do business in the State and to enter into the WIFIA Loan Documents then in existence, to execute and deliver this Agreement, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of this Agreement and the other WIFIA Loan Documents. Other than Resolution No. [] of the City Council of the City of Oxnard adopted on [], 2022 and the Indenture Documents, there are no additional instruments or documents necessary for the City to execute and deliver, or to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents.

(b) Officers' Authorization. As of the Effective Date, the officers of the City executing (or that previously executed) the WIFIA Loan Documents, and any certifications or instruments related thereto, to which the City is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the WIFIA Loan Documents in effect as of any date on which this representation and warranty is made, and to which the City is a party, has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding agreement of the City enforceable against the City in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the WIFIA Loan Documents to which the City is a party, the consummation of the transactions contemplated by the WIFIA Loan Documents, and the fulfillment of or compliance with the terms and conditions of all of the WIFIA Loan Documents, do not and will not (i) conflict with the City's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the City of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, other than Permitted Liens.

(e) Consents and Approvals. All Governmental Approvals required as of the Effective Date and required as of any subsequent date on which this representation is made (or deemed made) for the undertaking, construction and completion by the City of the Project and the operation and maintenance of the Water System, and to execute and deliver and perform its obligations under the WIFIA Loan Documents and the Construction Contracts, have been obtained or effected and are in full force and effect. The City is not in default with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect. No consent or approval of any trustee, holder of any indebtedness of the City or any other Person is necessary in connection with the execution, delivery, and performance by the

City of the WIFIA Loan Documents and the consummation of any transaction contemplated thereunder, except as have been obtained or made and as are in full force and effect.

(f) Litigation. Except as set forth in **Part B of Schedule III-B** (*Borrower Disclosures*), there is no action, suit, proceeding or, to the knowledge of the City, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the City, threatened against the City or affecting the Water System, the Project or the ability of the City to execute, deliver and perform its obligations under the WIFIA Loan Documents or that in any case could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Installment Purchase Agreement establish, and the City has taken all necessary action to pledge, assign, and grant, in each case for the benefit of the Borrower, legal, valid, binding and enforceable Liens on the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, purported to be created, pledged, assigned, and granted pursuant to and in accordance with the Installment Purchase Agreement, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act, and if applicable, the security interests created in the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, have been duly perfected under applicable State law. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, except for the Liens arising by operation of law, and not *pari passu* with any Liens other than the Liens on the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, in favor of debt service in accordance with the provisions of any City Bond or City Contract, which are *pari passu* with the Installment Payments. The City is not in breach of any covenant set forth in Section 19(b) (*Securing Liens*) or in the Indenture Documents with respect to the matters described in Section 19(b) (*Securing Liens*). As of the Effective Date and as of each other date this representation and warranty is made, (A) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable and, if applicable, perfected, Lien on the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, in favor of the Borrower to the extent contemplated by the Installment Purchase Agreement, and (B) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, validity, enforceability, priority or, if applicable, perfection, of the security interest in the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, granted pursuant to the Installment Purchase Agreement is governed by Article 9 of the UCC.

(h) No Debarment. The City has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the City nor any of its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. § 1532.995) (i) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters, (ii) is presently

indicted for or otherwise criminally or civilly charged by a Governmental Authority with commission of any of the offenses listed in 2 C.F.R. § 180 or 2 C.F.R. § 1532; and (iii) have, within the three (3) year period preceding the Effective Date, (x) been convicted for or had a civil judgment rendered against the City for any of the offenses within such period or (y) had any public transactions (federal, state or local) terminated for cause or default.

(i) No Lobbying. Pursuant to 31 U.S.C. §1352, to the best of the City's knowledge and belief, (A) no Federal appropriated funds have been paid or will be paid, by or on behalf of the City, to any Person for influencing or attempting to influence an officer or employee of an agency, a member (or employee of a member), officer, or employee of the U.S. Congress, in connection with the making of the WIFIA Loan, execution (including amendments or modifications) of the WIFIA Loan Documents, or any other federal action under 31 U.S.C. §1352(a)(2); and (B) if any funds other than Federal appropriated funds have been paid or will be paid to any Person for influencing or attempting to influence an officer or employee of any agency, a member (or employee of a member), officer, or employee of the U.S. Congress in connection with the WIFIA Loan, the City has completed and submitted to the WIFIA Lender Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(j) Compliance with Laws.

(i) The City, and to the best of the City's knowledge, each of the City's contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto), 33 U.S.C. §3914 (relating to American iron and steel products), 20 C.F.R. §180.320 and 20 C.F.R. §1532 (relating to non-debarment), 31 U.S.C. §1352 and 49 C.F.R. §20.100 (relating to non-lobbying), and any applicable Sanctions Laws.

(ii) To ensure such compliance, the City has included in all contracts with respect to the Project (A) the contract clauses relating to applicable federal requirements (such as Davis-Bacon and Equal Employment Opportunity) and (B) requirements that its contractors (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 12(j) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 12(j).

(iii) Except as set forth in **Part C of Schedule III-B** (*City Disclosures*), the City is in compliance with all laws applicable to the Water System (including the Project) relating to environmental, health or safety matters.

(k) No Defaults. No Default or Event of Default, and no default or event of default by the City under any other Related Document, has occurred and is continuing.

(l) Construction Contracts. **Part C of Schedule II** (*Project Details*) sets forth a list of the Existing Construction Contracts as of the Effective Date. With respect to each Construction Contract executed as of any date on which this representation and warranty is made, such Construction Contract is in full force and effect.

(m) Information. The information furnished by, or on behalf of, the City to the WIFIA Lender, when taken as a whole, is true and correct in all material respects (other than for projections and other forward-looking statements contained in the Base Case Financial Model and any Updated Financial Model/Plan which have been made in good faith and based on reasonable assumptions) and does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading as of the date made or furnished.

(n) Insurance. The City is in compliance with all insurance obligations required under each Related Document to which the City is a party (including Section 18(f) (*Insurance*) hereof) as of the date on which this representation and warranty is made. To the extent the City self-insures, the City's self-insurance program is actuarially sound.

(o) No Prohibited Liens. Except for Permitted Liens, the City has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, the Water System, the Project, the Revenues, or the City's respective rights in any of the foregoing.

(p) Financial Statements. Each income statement, balance sheet and statement of operations and cash flows (collectively, "**Financial Statements**") delivered to the WIFIA Lender pursuant to **Part B of Schedule V** (*Reporting Requirements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition (including any liabilities or obligations that are required to be disclosed in accordance with GAAP) of the City as of the respective dates of the balance sheets included therein and the results of operations of the City for the respective periods covered by the statements of income included therein.

(q) No Delinquent Taxes or Federal Debt. The City has paid all applicable taxes and other material taxes and assessments payable by it that have become due (other than those taxes or assessments that it is contesting in good faith and by appropriate proceedings, for which adequate reserves have been established to the extent required by GAAP). The City has no delinquent federal debt (including tax liabilities but excluding any delinquencies that have been resolved with the appropriate federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996).

(r) Sufficient Funds. The amount of the WIFIA Loan, when combined with all other funds committed for the development and construction of the Project as set forth under the various sources of funds in the Project Budget, will be sufficient to carry out the Project, pay all Total Project Costs anticipated for the development and construction of the Project and achieve Substantial Completion by the Projected Substantial Completion Date. The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan

(excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs. The Updated Financial Model/Plan most recently delivered to the WIFIA Lender pursuant to **Part A of Schedule V** (*Reporting Requirements*) demonstrates that the projected Revenues are sufficient to meet the WIFIA Loan Amortization Schedule. The City has developed, and identified adequate revenues to implement, a plan for operating, maintaining, and repairing the Project over the useful life of the Project.

(s) Sovereign Immunity. The City either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the City under any of the WIFIA Loan Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the City hereunder and thereunder, or, to the extent that the City has such immunity, the City has waived such immunity pursuant to Section 18(m) (*Immunity*).

(t) Accuracy of Representations and Warranties. The representations, warranties and certifications of the City set forth in this Agreement and the other WIFIA Loan Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

Section 14. Representations and Warranties of WIFIA Lender. The WIFIA Lender represents and warrants that:

(a) Power and Authority. The WIFIA Lender has all requisite power and authority to make the WIFIA Loan and to perform all transactions contemplated by the WIFIA Loan Documents to which it is a party.

(b) Due Execution; Enforceability. The WIFIA Loan Documents to which it is a party have been duly authorized, executed and delivered by the WIFIA Lender, and are legally valid and binding agreements of the WIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the WIFIA Lender executing each of the WIFIA Loan Documents to which the WIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the WIFIA Lender.

ARTICLE V COVENANTS

Section 15. Affirmative Covenants of the Borrower. The Borrower covenants and agrees as follows until the date the WIFIA Bond and all of the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make Disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing.

(a) [Reserved].

(b) Securing Liens. The Borrower shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens on the Pledged Collateral (whether now existing or hereafter arising) granted to the WIFIA Lender for its benefit pursuant to the WIFIA Loan Documents, or intended so to be granted pursuant to the WIFIA Loan Documents, or which the Borrower may become bound to grant. The Borrower shall at all times maintain the Pledged Collateral free and clear of any Lien that has priority over, or equal rank with, the Liens created by the Indenture Documents, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Pledged Collateral granted pursuant to the WIFIA Loan Documents and for the benefit of the WIFIA Lender under the WIFIA Loan Documents against all claims and demands of all Persons whomsoever.

(c) Use of Proceeds. The Borrower shall use the proceeds of the WIFIA Loan solely for purposes permitted by applicable law, this Agreement and the other WIFIA Loan Documents.

(d) Verification Requirements.

(i) [Reserved]

(ii) The Borrower shall comply with Subpart C of 2 C.F.R. Part 180, as supplemented by Subpart C of 2 C.F.R. Part 1532 (relating to debarment), including the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320, and shall include in its contracts with respect to the Project similar terms or requirements for compliance.

(e) [Reserved].

(f) [Reserved]

(g) Maintain Legal Structure. The Borrower shall maintain its existence as a Legal Entity organized and existing under its Organizational Documents and the laws of the State.

(h) Water System Accounts; Permitted Investments.

(i) The Borrower shall maintain the Revenue Account in accordance with the terms hereof and the Indenture Documents. All Revenues received shall be deposited into the Revenue Account in accordance with Section 4.02(a) of the Indenture. The Borrower shall not apply any portion of the Revenues in contravention of this Agreement or the Indenture Documents. Any funds then on deposit in the WIFIA Debt Service Account (if applicable) shall only be used for payments of WIFIA Debt Service by the Borrower (or Trustee, if applicable, as directed by the Borrower) in accordance with the WIFIA Loan Documents.

(ii) If a WIFIA Debt Service Reserve Requirement is applicable as set forth in **Part D of Schedule I** (*WIFIA Loan Specific Terms*), the Borrower shall maintain the WIFIA Debt Service Reserve Account in an amount equal to the WIFIA Debt Service Reserve Requirement in accordance with the provisions of the applicable Indenture Documents, including Section 3.03 of the Indenture.

(iii) Amounts on deposit in the Water System Accounts shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder at such times as may be necessary to ensure that funds will be available within the applicable account to be applied towards the purpose for which the applicable account has been established.

(i) Compliance with Laws.

(i) The Borrower shall comply with all applicable laws, rules, regulations and requirements, including all applicable Sanctions Laws.

(ii) To ensure such compliance, the Borrower shall include in all contracts to which it is a party with respect to the Project (A) the contract clauses relating to applicable federal requirements (such as Davis-Bacon and Equal Employment Opportunity) and (B) requirements that its contractors (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 14(i) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 14(i).

(j) Material Obligations.

(i) The Borrower shall pay its material obligations promptly and in accordance with their terms.

(ii) The Borrower shall pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Pledged Collateral, before the same become delinquent or in default; provided that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(iii) The Borrower will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a Lien on the Pledged Collateral.

(k) SAM Registration and UEI Number. The Borrower shall obtain and maintain, on or prior to the Effective Date through (i) the Final Disbursement Date, an active SAM registration status and (ii) the Final Maturity Date, a UEI Number.

(l) [Reserved]

(m) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other WIFIA Loan Document.

(n) Accounting and Audit Procedures.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all (A) Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments and (B) Project-related costs, Requisitions submitted, WIFIA Loan proceeds received, payments made by the Borrower with respect to the Project, and other sources of funding for the Project (including amounts paid from such sources for Project costs so that audits may be performed to ensure compliance with and enforcement of this Agreement). The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts Outstanding.

(ii) The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 from (and including) the first Borrower Fiscal Year in which a Disbursement is made under this Agreement and annually thereafter to the extent required by applicable law, except in all cases to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 40 C.F.R. Part 35, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the WIFIA Loan, to the WIFIA Lender, or the designee thereof, for any such project or programmatic audit.

(o) Access; Records.

(i) So long as the WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the WIFIA Loan shall have been paid in full, the WIFIA Lender shall have the right, upon reasonable prior notice, to visit, monitor and/or inspect any portion of the Project and its operations, to examine books of account and records of the Borrower relating to the Project, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts relating to the Project with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in

this Section 14(o) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request. The Borrower agrees to pay all out-of-pocket expenses incurred by the WIFIA Lender in connection with the WIFIA Lender's exercise of its rights under this Section 14(o) at any time when an Event of Default shall have occurred and be continuing.

(ii) The Borrower shall maintain and retain all pertinent files relating to the Project and the WIFIA Loan, as may be necessary for the WIFIA Lender to facilitate an effective and accurate audit and performance evaluation of the Project, until five (5) years after the later of the date on which (A) all rights and duties under this Agreement and under the WIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (B) any litigation relating to the Project, the WIFIA Loan or this Agreement is finally resolved or, if the WIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the WIFIA Lender and the Borrower. The Borrower shall provide to the WIFIA Lender in a timely manner all records and documentation relating to the Project that the WIFIA Lender may reasonably request from time to time.

(p) Enforcement of Remedies Under the IPA. The Borrower shall enforce its rights and remedies, including acceleration, under the Installment Purchase Agreement upon the occurrence of an Event of Default by the City under (and as defined in) the Installment Purchase Agreement unless the WIFIA Lender permits a waiver of such rights or remedies pursuant to Section 16(b) (*No Lien Extinguishment or Adverse Amendments*).

Section 16. Negative Covenants of the Borrower. The Borrower covenants and agrees as follows until the date the WIFIA Bond and all of the Obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make Disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Program Requirements. The Borrower may not create, incur or suffer to exist any Obligations (1) the payments with respect to which are payable from Revenues or (2) secured by a Lien on the Pledged Collateral.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) amend, modify, terminate, assign, replace or supplement, or permit a waiver of any provision of, the Installment Purchase Agreement, (ii) amend, modify, replace or supplement any Related Document to which the Borrower is a party (other than the WIFIA Installment Purchase Agreement) or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to result in a Material Adverse Effect, or (iii) terminate, assign or replace any Related Document to which the Borrower is a party (other than (A) the WIFIA Installment Purchase Agreement and (B) transaction documents relating to Subordinate Obligations) in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to have a Material Adverse Effect.

(c) No Prohibited Liens. Except for Permitted Liens described in clause (a) of the definition thereof, the Borrower shall not create, incur, assume or permit to exist any Lien on the Pledged Collateral, the Revenues, or the Borrower's respective rights in any of the foregoing and the Pledged Collateral will be free and clear of any Lien that is of equal rank with or senior to the pledge of the Borrower created under the Indenture Documents for the benefit of the WIFIA Lender.

(d) Restricted Payments and Transfers. The Borrower shall not permit Revenues or other assets of the Water System, or any funds in any accounts held under the Indenture or in any other fund or account held by or on behalf of the Borrower, to be paid or transferred or otherwise applied for purposes other than payment of WIFIA Debt Service and other amounts due and payable by the Borrower under the WIFIA Loan Documents.

(e) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the Pledged Collateral.

(f) Mergers and Acquisitions. The Borrower shall not, and shall not agree to, reorganize, consolidate with or merge into another Person unless (i) such reorganization, merger or consolidation is with or into another entity established by State law and such reorganization, merger or consolidation is permitted by State law, and in each case, does not adversely affect or impair to any extent or in any manner (A) the Revenues or other elements of the Pledged Collateral or (B) the availability of the Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower provides to the WIFIA Lender notice of such reorganization, consolidation or merger in accordance with **Part E of Schedule V** (*Reporting Requirements*) and such other information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Lender.

(g) Hedging. Other than interest rate hedging transactions permitted under the Indenture, the Borrower shall not enter into any swap or hedging transaction, including any such transaction that is speculative or creates extraordinary leverage or risk, without the prior written consent of the WIFIA Lender.

Section 17. Reporting Requirements. The Borrower agrees to comply with each of the reporting requirements set out in **Schedule V** (*Reporting Requirements*), unless otherwise agreed or waived by the WIFIA Lender in writing.

Section 18. Affirmative Covenants of the City. The City covenants and agrees as follows until the date the WIFIA Bond and all of the obligations of the City under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make Disbursements to the City, unless the WIFIA Lender waives compliance in writing:

(a) Rate Covenant. (i) The City shall comply with all requirements and conditions specified in the Rate Covenant.

(ii) If:

(A) the forecast furnished by the City in the most recent Updated Financial Model/Plan delivered by the City pursuant to **Part A of Schedule V** (*Reporting Requirements*) demonstrates that projected Net Water System Revenues may be inadequate to satisfy the Rate Covenant for any City Fiscal Year during the Forecast Period, the City shall propose a remedial course of action, which plan shall demonstrate to the WIFIA Lender's satisfaction that such plan will generate an equivalent or greater increase to the Net Water System Revenues so as to satisfy the Rate Covenant; and/or

(B) the City fails to satisfy the Rate Covenant for the most recently ended City Fiscal Year, the City shall (A) within thirty (30) days after request by the WIFIA Lender, engage the Technical and Rate Consultant to review and analyze the operations of the Water System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net Water System Revenues so as to satisfy the Rate Covenant, (B) cause the Technical and Rate Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (C) either, within sixty (60) days following the issuance of the Technical and Rate Consultant's report, (1) implement the Technical and Rate Consultant's recommendations or (2) undertake an alternative course of action after demonstrating to the WIFIA Lender's satisfaction that an alternative plan will generate an equivalent or greater increase to the Net Water System Revenues so as to satisfy the Rate Covenant.

(b) Securing Liens. The City shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens on the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, (whether now existing or hereafter arising) granted to the Borrower for its benefit pursuant to the Installment Purchase Agreement, or intended so to be granted pursuant to the Installment Purchase Agreement, or which the City may become bound to grant. The City shall at all times maintain the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, free and clear of any Lien that has priority over the Liens created by the Installment Purchase Agreement, other than Permitted Liens described in clause (a) of the definition thereof, and all organizational, regulatory or other necessary action on the part of the City to that end shall be duly and validly taken at all times. The City shall at all times maintain the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, free and clear of any Lien that is of equal rank with the Liens created by the Installment Purchase Agreement, other than Permitted Liens created in respect of City Bonds and City Contracts that are permitted hereunder, and all organizational, regulator or other necessary action on the part of the City to that end shall be duly and validly taken at all times. The City shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Net Water System Revenues, including Net Water System Revenues in the Water System Revenue Fund, granted pursuant to the Installment Purchase Agreement and for the benefit of the

Borrower under the Installment Purchase Agreement against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(c) Use of Proceeds. The City shall use the proceeds of the WIFIA Loan solely for purposes permitted by applicable law, this Agreement and the other WIFIA Loan Documents.

(d) Prosecution of Work; Verification Requirements.

(i) The City shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule (and on or prior to the Development Default Date), the Governmental Approvals in connection with the Project, and prudent utility and industry practice.

(ii) The City shall comply with Subpart C of 2 C.F.R. Part 180, as supplemented by Subpart C of 2 C.F.R. Part 1532 (relating to debarment), including the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320, and shall include in its contracts with respect to the Project similar terms or requirements for compliance.

(e) Operations and Maintenance. The City shall operate and maintain the Water System (including the Project) substantially in accordance with the Updated Financial Model/Plan most recently delivered by the City to the WIFIA Lender pursuant to **Part A of Schedule V** (*Reporting Requirements*) and its operations and maintenance plan (that incorporates the Project). The City shall operate and maintain the Water System (including the Project) in a reasonable and prudent manner and in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable WIFIA Loan Document. The City shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business and the operation and maintenance of the Water System.

(f) Insurance.

(i) The City shall at all times procure and maintain or cause to be maintained insurance on the Water System and the construction of the Project, with responsible insurers, or as part of a reasonable system of self-insurance that is actuarially sound and adequately funded, in such amounts and against such risks (including damage to or destruction of the Water System) as are customarily maintained with respect to works and properties of like character against accident to, loss of, or damage to such works or properties, including insurance against public liability, property damage, workers' compensation, and builders' risk, casualty and liability, as appropriate, and otherwise in accordance with the Installment Purchase Agreement and Construction Contracts. The insurance policies shall be available at all reasonable times for inspection upon request by the WIFIA Lender, its agents and representatives.

(ii) The City shall cause all liability insurance policies that it maintains (excluding property damage, automobile or workers' compensation insurance), to reflect the WIFIA Lender as an additional insured to the extent of its insurable interest.

(g) Maintain Legal Structure. The City shall maintain its existence as a Legal Entity organized and existing under its Organizational Documents and the laws of the State.

(h) Accounts; Permitted Investments.

(i) The City shall maintain the Water System Revenue Account in accordance with the terms hereof and the Installment Purchase Agreement. All Water System Revenues received shall be deposited into the Water System Revenue Account in accordance with Section 5.02 of the Installment Purchase Agreement, subject to the application of Water System Revenues to Maintenance and Operation Costs of the Water System. The City shall not apply any portion of the Water System Revenues in contravention of this Agreement or the Installment Purchase Agreement.

(ii) [Reserved]

(iii) Amounts on deposit in the Water System Accounts shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder at such times as may be necessary to ensure that funds will be available within the applicable account to be applied towards the purpose for which the applicable account has been established.

(i) Compliance with Laws.

(i) The City shall, and shall require its contractors and subcontractors at all tiers with respect to the Project to, comply with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto), 33 U.S.C. §3914 (relating to American iron and steel products), 20 C.F.R. § 180.320 and 20 C.F.R. §1532 (relating to non-debarment), 31 U.S.C. §1352 (relating to non-lobbying), and any applicable Sanctions Laws.

(ii) To ensure such compliance, the City shall include in all contracts with respect to the Project (A) the contract clauses relating to applicable federal requirements (such as Davis-Bacon and Equal Employment Opportunity) and (B) requirements that its contractors (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 18(i) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 18(i).

(j) Material Obligations. The City shall pay its material obligations payable from the Water System Revenues promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Net Water System Revenues or Water System Revenue Fund or other assets of the Water System, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon the Water System or any part thereof or on the Net Water System Revenues or the

Water System Revenue Fund; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the City in good faith by appropriate proceedings and so long as the City shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(k) SAM Registration and UEI Number. The City shall obtain and maintain, on or prior to the Effective Date through (i) the Final Disbursement Date, an active SAM registration status and (ii) the Final Maturity Date, a UEI Number.

(l) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to the Water System (including the Project) or any part thereof, the City shall (i) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such Event of Loss and (ii) apply all Loss Proceeds (after excluding any proceeds of delay-in-start-up insurance and proceeds covering liability of the City to third parties) in respect of such Event of Loss in accordance with Section 6.06 of the Installment Purchase Agreement.

(m) Immunity. To the fullest extent permitted by applicable law, the City agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the City under this Agreement or any other WIFIA Loan Document.

(n) Accounting and Audit Procedures.

(i) The City shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all (A) Water System Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments and (B) Project-related costs, Requisitions submitted, WIFIA Loan proceeds received, payments made by the City with respect to the Project, and other sources of funding for the Project (including amounts paid from such sources for Project costs so that audits may be performed to ensure compliance with and enforcement of this Agreement). The City shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts Outstanding.

(ii) The City shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 from (and including) the first City Fiscal Year in which a Disbursement is made under this Agreement and annually thereafter to the extent required by applicable law, except in all cases to the extent biennial audits are permitted for the City pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the City shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 40 C.F.R. Part 35, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are

pertinent to the Project or the WIFIA Loan, to the WIFIA Lender, or the designee thereof, for any such project or programmatic audit.

(o) Access; Records.

(i) So long as the WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the WIFIA Loan shall have been paid in full, the WIFIA Lender shall have the right, upon reasonable prior notice, to visit, monitor and/or inspect any portion of the Project and its operations, to examine books of account and records of the City relating to the Project, to make copies and extracts therefrom at the City's expense, and to discuss the City's affairs, finances and accounts relating to the Project with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the City irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the City, whether or not any representative of the City is present, it being understood that nothing contained in this Section 18(o) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request. The City agrees to pay all out-of-pocket expenses incurred by the WIFIA Lender in connection with the WIFIA Lender's exercise of its rights under this Section 18(o) at any time when an Event of Default shall have occurred and be continuing.

(ii) The City shall maintain and retain all pertinent files relating to the Project and the WIFIA Loan, as may be necessary for the WIFIA Lender to facilitate an effective and accurate audit and performance evaluation of the Project, until five (5) years after the later of the date on which (A) all rights and duties under this Agreement and under the WIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (B) any litigation relating to the Project, the WIFIA Loan or this Agreement is finally resolved or, if the WIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the WIFIA Lender and the City. The City shall provide to the WIFIA Lender in a timely manner all records and documentation relating to the Project that the WIFIA Lender may reasonably request from time to time.

Section 19. Negative Covenants of the City. The City covenants and agrees as follows until the date the WIFIA Bond and all of the Obligations of the City under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make Disbursements to the City, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness. The City shall not issue or incur any Additional Obligations except in accordance with all requirements and conditions set forth in the Additional Bonds Test.

(b) No Lien Extinguishment or Adverse Amendments. The City shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) extinguish the Rate Covenant; (ii) extinguish or impair the Liens on the Net Water System Revenues or Water System Revenue Fund or any dedicated source of Installment Payments or any other Obligations (the proceeds of which are applied to fund Total Project Costs), in each

case granted pursuant to the Installment Purchase Agreement, (iii) amend, modify, replace or supplement the Installment Purchase Agreement or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender, or (iv) terminate, assign or replace the Installment Purchase Agreement in a manner that could adversely affect the WIFIA Lender.

(c) No Prohibited Liens. Except for Permitted Liens, the City shall not create, incur, assume or permit to exist any Lien on the Project, the Net Water System Revenues, the Water System Revenue Fund, or the City's respective rights in any of the foregoing and the Net Water System Revenue and Water System Revenue Fund will be free and clear of any Lien that is of equal rank with or senior to the pledge of the City created under the Installment Purchase Agreement for the benefit of the Borrower.

(d) Restricted Payments and Transfers. The City shall not permit Water System Revenues or other assets of the Water System, or any funds in any accounts held under the Installment Purchase Agreement or any ancillary agreement related thereto, or in any other fund or account held by or on behalf of the City for the benefit of the Water System, to be paid or transferred or otherwise applied for purposes other than ownership, construction and improvement, operation or maintenance of the Water System; provided that the City may transfer excess Water System Revenues from the Water System Revenue Fund to the general fund of the City for the sole purpose of reimbursing to the City's general fund amounts previously expended out of the City's general fund to pay for costs directly related to the ownership, construction and improvement, operation or maintenance of the Water System.

(e) No Prohibited Sale, Lease or Assignment. The City shall not sell, lease or assign its rights in and to the Water System or a substantial portion of the assets included in the Water System, unless such sale, lease or assignment (i) could not reasonably be expected to have a Material Adverse Effect and (ii) is made by the City in the ordinary course of business.

(f) Mergers and Acquisitions. The City shall not, and shall not agree to, reorganize, consolidate with or merge into another Person unless (i) such reorganization, merger or consolidation is with or into another entity established by State law and such reorganization, merger or consolidation is permitted by State law, and in each case, does not adversely affect or impair to any extent or in any manner (A) the Water System Revenues or other elements of the Net Water System Revenues or Water System Revenue Fund or (B) the availability of the Water System Revenues for the payment and security of the obligations of the City under the Installment Purchase Agreement; and (ii) the City provides to the WIFIA Lender notice of such reorganization, consolidation or merger in accordance with **Part E of Schedule V** (*Reporting Requirements*) and such other information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Lender.

(g) Hedging. Other than interest rate hedging transactions permitted under the Installment Purchase Agreement, the City shall not enter into any swap or hedging transaction, including any such transaction that is speculative or creates extraordinary leverage or risk, without the prior written consent of the WIFIA Lender.

Section 20. Reporting Requirements. The City agrees to comply with each of the reporting requirements set out in **Schedule V** (*Reporting Requirements*), unless otherwise agreed or waived by the WIFIA Lender in writing.

ARTICLE VI EVENTS OF DEFAULT AND REMEDIES

Section 21. Events of Default and Remedies.

(a) An “**Event of Default**” shall exist under this Agreement if any of the following occurs; provided, that the occurrence of an event set forth in sub-clauses (v) through (and including) (ix) below shall not constitute an Event of Default under this Agreement until the WIFIA Lender has provided a notice of such Event of Default to the Borrower or the City; provided, further, that nothing in this paragraph is intended to limit any obligation of the Borrower or the City hereunder, including any obligation to cure any event or condition contemplated under this Section 21(a):

(i) Payment Default. The Borrower shall fail to pay when due any part of the principal amount of or interest on the WIFIA Loan (including WIFIA Debt Service required to have been paid pursuant to the provisions of Section 8 (*Repayment*)) or the City shall fail to pay when due any part of the Installment Payments, and such failure continues for a period of five (5) days, when and as the payment thereof shall be required under this Agreement, the WIFIA Bond or the Installment Purchase Agreement or on the Final Maturity Date (each such failure, a “**Payment Default**”).

(ii) Occurrence of a Bankruptcy Related Event. A Bankruptcy Related Event shall occur with respect to the Borrower or the City.

(iii) Acceleration of Obligations. Any acceleration shall occur of the maturity of any Obligation, or any such Obligation shall not be paid in full upon the final maturity thereof.

(iv) Invalidity of WIFIA Loan Documents. (A) Any WIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower or the City contests in any manner the validity or enforceability of any WIFIA Loan Document to which it is a party or denies it has any further liability under any WIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA Loan Document to which it is a party; (B) any Indenture Document ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Pledged Collateral other than as a result of actions or a failure to act by, and within the control of, the Trustee, the WIFIA Lender, or any other holder of Obligations secured by the Pledged Collateral, and with the priority purported to be created thereby; (C) the Installment Purchase Agreement ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Net Water System Revenues and the Water System Revenue Fund other than as a result of actions or a failure to act

by, and within the control of, the Trustee, the WIFIA Lender, or any other holder of Obligations secured by the Net Water System Revenues and the Water System Revenue Fund, and with the priority purported to be created thereby; or (D) any event occurs that results in the impairment in the validity, enforceability, perfection or priority of the WIFIA Lender's security interest in the Pledged Collateral.

(v) Covenant Default. The Borrower or the City shall fail to observe or perform any covenant, agreement or obligation of the Borrower or the City, as applicable, under this Agreement, the WIFIA Bond or any other WIFIA Loan Document (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower or the City from the WIFIA Lender of written notice thereof or (B) the Borrower's or the City's knowledge of such failure; provided, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower or the City, as applicable, shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable; provided, however, that with respect to a failure to comply with the Rate Covenant, the City shall take such action described in Section 18 herein and Section 6.10(ii) of the Installment Purchase Agreement.

(vi) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower or the City made in or delivered pursuant to the WIFIA Loan Documents (or in any certificates delivered by the Borrower or the City in connection with the WIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made; provided, that no Event of Default shall be deemed to have occurred under this Section 21(a)(vi) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 12(g) (*Security Interests*), Section 12(h) (*No Debarment*), Section 12(i) (*No Lobbying*), or Section 12(j) (*Compliance with Laws*), (C) in the reasonable determination of the WIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect, (D) in the reasonable determination of the WIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured and (E) the underlying issue giving rise to the misrepresentation is cured by the Borrower or the City, as applicable, within thirty (30) days after the date on which the Borrower or the City, as applicable, first became aware (or reasonably should have become aware) of such misrepresentation.

(vii) Enforcement of Other Financing Documents. The holder(s) of Obligations under a Related Document exercises remedies permitted thereunder for an event of default that has occurred and is continuing (and has not been cured or waived by the expiration of any applicable grace period), in respect of the performance of any covenant, agreement or obligation of the Borrower or the City under such Related Document.

(viii) Material Adverse Judgment. Any final, non-appealable judgment related to the Pledged Collateral that results in the impairment of (A) the Borrower's ability to comply with any of its payment obligations under the WIFIA Bond or this Agreement, (B) the City's ability to comply with any of its payment obligations under the Installment Purchase Agreement, or (C) the existence, priority or perfection (if applicable) of the WIFIA Lender's security interest in the Pledged Collateral.

(ix) Development Default. A Development Default shall occur.

(b) Upon the occurrence of any Bankruptcy Related Event, all obligations of the WIFIA Lender hereunder with respect to the Disbursement of any undisbursed amounts of the WIFIA Loan shall automatically be deemed terminated.

(c) Upon the occurrence of any Event of Default, the WIFIA Lender, by written notice to the Borrower and the City, may exercise any or all of the following remedies:

(i) the WIFIA Lender may suspend or terminate all of its obligations hereunder with respect to the Disbursement of any undisbursed amounts of the WIFIA Loan;

(ii) the WIFIA Lender may cease permitting interest on the WIFIA Loan to be capitalized (if applicable);

(iii) the WIFIA Lender may apply the Default Rate provisions of Section 6 (*Interest Rate*);

(iv) the WIFIA Lender may suspend or debar the Borrower or the City from further participation in any Government program administered by the WIFIA Lender and notify other departments and agencies of such default; and

(v) the WIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the WIFIA Bond or the other WIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the WIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code (if applicable), and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the Borrower under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents.

(d) Pursuant to Section 8.01 of the Indenture, upon the occurrence and continuance of any Event of Default (as defined in the Indenture), so long as such Event of Default shall not have been cured, the WIFIA Lender may, in accordance with Section 8.01 of the Indenture, declare the unpaid principal amount of the WIFIA Bond to be, and the same shall

thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents, all without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived.

(e) No action taken pursuant to this Section 21 shall (i) relieve the Borrower or the City from its obligations pursuant to this Agreement, the WIFIA Bond or the other WIFIA Loan Documents, all of which shall survive any such action or (ii) limit the WIFIA Lender's rights under the Indenture Documents, including Article VIII (*Events of Default and Remedies of Bond Owners*) of the Indenture.

ARTICLE VII MISCELLANEOUS

Section 22. Disclaimer of Warranty. The WIFIA Lender makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for use of the Project or any portion thereof or any other warranty with respect thereto. In no event shall the WIFIA Lender be liable for any incidental, indirect, special or consequential damages incidental to or arising out of this Agreement or the Water System (including the Project) or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Agreement.

Section 23. No Personal Recourse. No official, employee or agent of the WIFIA Lender or the Borrower or the City or any Person executing this Agreement or any of the other WIFIA Loan Documents shall be personally liable on this Agreement or such other WIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 24. No Third-Party Rights. The parties hereby agree that this Agreement creates no third-party rights against the Borrower, the City, the Federal Government, or the WIFIA Lender, solely by virtue of the WIFIA Loan, and that no third-party creditor of the Borrower shall have any right against the WIFIA Lender with respect to the WIFIA Loan made pursuant to this Agreement.

Section 25. Borrower's and City's Authorized Representatives. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the WIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower. The City shall at all times have appointed a City's Authorized Representative by designating such Person or Persons from time to time to act on the City's behalf pursuant to a written certificate furnished to the WIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the City.

Section 26. WIFIA Lender's Authorized Representative. The WIFIA Lender hereby appoints the Director of the WIFIA Program, whose notice details are set forth below in Section 35 (*Notices*), to serve as the WIFIA Lender's Authorized Representative under this Agreement

until such time as a successor or successors shall have been appointed. Thereafter, the successor in office shall serve as the WIFIA Lender's Authorized Representative. The WIFIA Lender shall provide notice to the Borrower within a reasonable time period following the succession.

Section 27. Servicer. The WIFIA Lender may from time to time designate another entity or entities to perform, or assist the WIFIA Lender in performing, the duties of the Servicer or specified duties of the WIFIA Lender under this Agreement and the WIFIA Bond. The WIFIA Lender shall give the Borrower and the City written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the WIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the WIFIA Lender shall have delegated to such Servicer. The WIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the WIFIA Bond. The Borrower and the City shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 28. Amendments, Waivers and Termination. No amendment, modification, termination, or waiver of any provision of this Agreement or the WIFIA Bond shall in any event be effective without the prior written consent of each of the parties hereto. Notwithstanding the foregoing sentence, if the first Disbursement of the WIFIA Loan has not occurred on or prior to the Final Disbursement Date, the WIFIA Lender or the Borrower or the City may terminate this Agreement upon no less than ten (10) Business Days' prior written notice to the other party. Once terminated, this Agreement may not be reinstated.

Section 29. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 30. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 31. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder or under the WIFIA Bond nor any interest herein or therein may be assigned or delegated by the Borrower without the prior written consent of the WIFIA Lender. Neither the City's rights or obligations hereunder nor any interest herein may be assigned or delegated by the City without the prior written consent of the WIFIA Lender.

Section 32. Remedies Not Exclusive. No remedy conferred herein or in the WIFIA Bond or reserved to the WIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the WIFIA Bond or now or hereafter existing at law or in equity or by statute.

Section 33. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder or under the WIFIA Bond upon a default of the Borrower or the City (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or under the WIFIA Bond or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

Section 34. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 35 (*Notices*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 35. Notices.

(a) All notices, requests, or communication hereunder shall be given in writing.

(b) Notices to the WIFIA Lender should be made by (i) email to the email address noted below for the WIFIA Lender or (ii) submission through another electronic medium or transmission system as designated by and in a format acceptable to the WIFIA Lender, unless otherwise instructed by the WIFIA Lender:

<u>If to WIFIA Lender:</u>	Environmental Protection Agency WJC-E 7334A 1200 Pennsylvania Avenue NW Washington, D.C. 20460 Attention: WIFIA Director Email: WIFIA_Portfolio@epa.gov
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(c) Notices to the Borrower should be made by (i) nationally recognized courier service, (ii) hand delivery, (iii) email, to the email address noted below for the Borrower, or (iv) another electronic medium in a format acceptable to the Borrower, unless otherwise instructed by the Borrower's Authorized Representative:

<u>If to Borrower:</u>	The notice details set forth in Part G of Schedule I (<i>WIFIA Loan Specific Terms</i>)
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(d) Notices to the City should be made by (i) nationally recognized courier service, (ii) hand delivery, (iii) email, to the email address noted below for the City, or (iv)

another electronic medium in a format acceptable to the City, unless otherwise instructed by the City's Authorized Representative:

If to City: The notice details set forth in **Part G of Schedule I**
(*WIFIA Loan Specific Terms*)

(e) Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 35 (or in accordance with the latest unrevoked written direction from the receiving party), and (y) if given by email or other electronic method, when such email is delivered to the email address specified in this Section 35 or submitted to the electronic medium as directed by the receiving party, in each case with the sender's receipt of an acknowledgement from the intended recipient (such as by a "read receipt," return email, or other written acknowledgement) (or in accordance with the latest unrevoked written direction from the receiving party); provided, that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 36. Indemnification. The Borrower and the City each shall, to the extent permitted by law, indemnify the WIFIA Lender, the Servicer (if any), and any official, employee, agent, advisor or representative of the WIFIA Lender (each such Person being herein referred to as an "**Indemnatee**") against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnatee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnatee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement, any Construction Contract, or any Related Document, (b) the WIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided, that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee. In case any action or proceeding is brought against an Indemnatee by reason of any claim with respect to which such Indemnatee is entitled to indemnification hereunder, the Borrower and the City each shall be entitled, at its expense, to participate in the defense thereof; provided, that such Indemnatee has the right to retain its own counsel, at the Borrower's or the City's expense, as applicable, and such participation by the Borrower or the City in the defense thereof shall not release the Borrower or the City, as applicable, of any liability that it may have to such Indemnatee. Any Indemnatee against whom any indemnity claim contemplated in this Section 36 is made shall be entitled, after consultation with the Borrower or the City, as applicable, and upon consultation with legal counsel wherein such Indemnatee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower or the City, as applicable, for purposes of this Section 36. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnatee. To the extent permitted by applicable law, neither the Borrower, the City nor the

WIFIA Lender shall assert, and each of the Borrower, the City and the WIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower or the City, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any Construction Contract, or any Related Document, the other transactions contemplated hereby and thereby, the WIFIA Loan or the use of the proceeds thereof, provided, that nothing in this sentence shall limit the Borrower's or the City's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 36 shall be payable promptly upon demand therefor. The obligations of the Borrower and the City under this Section 36 shall survive the payment or prepayment in full or transfer of the WIFIA Loan, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 36) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower or the City hereunder or thereunder.

Section 37. Sale of WIFIA Loan. The WIFIA Lender shall not sell the WIFIA Loan at any time prior to the later of (a) the Substantial Completion Date and (b) other than with respect to a sale or transfer to another Governmental Entity within the Federal Government, the Final Disbursement Date. After such date, the WIFIA Lender may sell the WIFIA Loan to another entity or reoffer the WIFIA Loan into the capital markets only in accordance with the provisions of this Section 37. Such sale or reoffering shall be on such terms as the WIFIA Lender shall deem advisable. However, in making such sale or reoffering the WIFIA Lender shall not change the terms and conditions of the WIFIA Loan without the prior written consent of the Borrower and the City in accordance with Section 28 (*Amendments and Waivers*). Prior to any sale or reoffering of the WIFIA Loan, the WIFIA Lender shall provide reasonable written notice to the Borrower and the City of the WIFIA Lender's intention to consummate such a sale or reoffering. The provision of any notice pursuant to this Section 37 shall neither (x) obligate the WIFIA Lender to sell nor (y) provide the Borrower or the City with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell the WIFIA Loan.

Section 38. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 39. Release of Lien. Upon the irrevocable payment in full in immediately available funds by the Borrower of the WIFIA Loan Balance, together with all accrued interest, fees and expenses with respect thereto, the WIFIA Lender shall cancel and discharge the Lien on the Pledged Collateral and surrender the WIFIA Bond to the Borrower in accordance with Section 9(b) (*General Prepayment Instructions*).

Section 40. Survival. The indemnification requirements of Section 36 (*Indemnification*), the reporting and record keeping requirements of Section 15(o) (*Access; Records*), the reporting and record keeping requirements of Section 18(o) (*Access; Records*) and the payment requirements of Section 10 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such Sections.

Section 41. Integration. This Agreement, together with the other WIFIA Loan Documents, constitutes the entire contract between the parties relating to the subject matter

hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

[The remainder of this page intentionally left blank; signature pages immediately follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

**THE CITY OF OXNARD FINANCE
AUTHORITY,**
by its authorized representative

By: _____
Name:
Title:

*[Signature Page to the City of Oxnard Finance Authority and the City of Oxnard Aquifer Storage Recovery (ASR)
Project – WIFIA Loan Agreement]*

THE CITY OF OXNARD,
by its authorized representative

By: _____
Name:
Title:

*[Signature Page to the City of Oxnard Finance Authority and the City of Oxnard Aquifer Storage Recovery (ASR)
Project – WIFIA Loan Agreement]*

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and
through the Administrator of the
Environmental Protection Agency

By: _____
Name: Michael S. Regan
Title: Administrator

*[Signature Page to the City of Oxnard Finance Authority and the City of Oxnard Aquifer Storage Recovery (ASR)
Project – WIFIA Loan Agreement]*

SCHEDULE I

WIFIA LOAN SPECIFIC TERMS

No.	Item	WIFIA Loan Specific Term
<i>PART A. Key Borrower Metrics</i>		
1.	Effective Date	[].
2.	Borrower	The City of Oxnard Finance Authority, a Legal Entity organized and existing under the State.
3.	Legal Entity	joint exercise of powers agency.
4.	State	California.
5.	Borrower FEIN	[].
6.	Borrower UEI Number	[].
7.	Initial Borrower Fiscal Year	The fiscal year of the Borrower commencing on July 1 of any given calendar year and ending on June 30 of the immediately succeeding calendar year.
8.	Application Receipt Date	September 27, 2021.
9.	WIFIA CUSIP Number	[], as the CUSIP number for the WIFIA Loan for purposes of monitoring through EMMA.
10.	Water System ¹	The whole and each and every part of the waterworks system serving the City, whether owned or operated by the City or another party, including the portion thereof existing on the Effective Date, and including all additions, betterments, extensions, and improvements to such water system or any part thereof acquired or constructed after the Effective Date.
11.	Revenues	Has the meaning ascribed to such term in the Indenture.
12.	Trustee	Computershare Trust Company, N.A., a national banking association organized and existing under the laws of the United States of America.
13.	Trustee Location	Minneapolis, Minnesota.
14.	The City	The City of Oxnard, a municipal corporation duly organized and existing under the laws of the State of

¹ **Note to Borrower:** To be clarified whether the System includes all drinking water, wastewater, sewer and other water supply infrastructure of the City (or only specific portions thereof).

No.	Item	WIFIA Loan Specific Term
		California.
PART B. Key Project Metrics		
15.	Project	The project is the Aquifer Storage Recovery (ASR) Project, located at the Project Location, and consists of the following components: (i) expansion of the City's Advanced Water Purification Facility capacity, (ii) construction of additional aquifer storage wells, (iii) construction of a distribution pipeline to convey recovered groundwater from the ASR wells to three existing Blending Stations, and (iv) upgrades to two of the city's Blending Stations including mechanical and electrical upgrades as well as piping modifications and pump replacements.
16.	Project Location	Oxnard, California.
17.	Projected Substantial Completion Date	[07/01/2027], ² as such date may be adjusted in accordance with Part C of Schedule V (Reporting Requirements) .
18.	Development Default Date	[12/31/2028]. ³
19.	NEPA Determination	[Finding of No Significant Impact][Categorical Exclusion][Record of Decision] for the Project issued by EPA on [___], 20[___] in accordance with NEPA.
20.	[Other/TBD]	
PART C. Key Loan Metrics		
21.	Maximum Principal Amount	Principal amount up to \$48,265,202 (excluding interest that is capitalized in accordance with this Agreement).
22.	WIFIA Interest Rate	[___]% per annum.
23.	Default Rate	Interest rate equal to the sum of (a) the WIFIA Interest Rate plus (b) 500 basis points.
24.	Interest Payment Date	Each June 1 and December 1, beginning on the Debt Service Payment Commencement Date.

² **Note:** To be confirmed prior to closing.

³ **Note:** To be confirmed prior to closing.

No.	Item	WIFIA Loan Specific Term
25.	Capitalized Interest Period	The period from (and including) the first Disbursement to (but excluding) the date that is six (6) months prior to the first Payment Date, subject to earlier termination as set forth in Section 8(a)(iii) (<i>Payment of WIFIA Debt Service</i>).
26.	Interest Only Period	The period commencing from (and including) the Debt Service Payment Commencement Date and ending on June 1, 2041 (or on such earlier date as all amounts due or to become due to the WIFIA Lender hereunder have been irrevocably paid in full in cash).
27.	Principal Payment Date	Each June 1, beginning on June 1, 2041.
28.	Final Maturity Date	The earliest of (a) July 1, 2062, (b) the date on which the maturity of the WIFIA Loan and corresponding WIFIA Bond have been accelerated or subject to mandatory redemption or prepayment (as the case may be) prior to maturity thereof; and (c) the Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.
29.	[Other/TBD]	
PART D. Key Security Metrics		
30.	Lien priority	Senior lien, <i>pari passu</i> with the Existing Indebtedness and any Additional Obligations.
31.	Springing lien	Not Applicable
32.	Dedicated revenue source	Net Water System Revenues, payable to the Borrower through the Installment Payments received by the Borrower pursuant to or with respect to the Installment Purchase Agreement, and all interest or gain derived from the investment of amounts in the funds or accounts established under the Installment Purchase Agreement. The Installment Payments shall be payable to the WIFIA Lender as assignee of the Borrower, from, and secured by, the Net Water System Revenues of the Water System in accordance with the Installment Purchase Agreement.

Schedule I-3

No.	Item	WIFIA Loan Specific Term
33.	Pledged Collateral	The WIFIA Loan shall be secured by a first priority lien on, and security interest in, (i) all amounts held in the Revenue Account (including the funds and accounts therein), (ii) all amounts held in the WIFIA Debt Service Reserve Account (including the funds and accounts therein), (iii) the Revenues received by the Borrower or the Trustee under the Installment Purchase Agreement and (iv) all money on deposit from time to time in the accounts and funds established under the Indenture. Payment of the Installment Payments by the City to the Borrower shall be secured by a first priority lien on the Net Water System Revenues. All Water System Revenues received by the City shall be deposited in a separately maintained fund established and held by the City with respect to the Water System Revenues (the “Water System Revenue Fund”) from which the City will pay all Maintenance and Operation Costs as they become due and payable, and the remaining money on deposit, which shall constitute the Net Water System Revenues, will be used to make deposits with the Trustee in such amounts as required to pay the Installment Payments and debt service in accordance with the provisions of any City Bond or City Contract, which are <i>pari passu</i> with the Installment Payments.
34.	Water System Accounts	The Revenue Account, the WIFIA Debt Service Account, and the WIFIA Debt Service Reserve Account.
35.	Revenue Account	Has the meaning ascribed to the “Revenue Fund” in the Indenture.
36.	WIFIA Debt Service Account	Has the meaning ascribed to the “Bond Payment Fund” in the Indenture.
37.	WIFIA Debt Service Reserve Account	That certain Reserve Fund, as defined in the Indenture.
38.	WIFIA Debt Service Reserve Requirement	Means, as of any date of calculation, the least of (i) ten percent (10%) of the original issue price of the WIFIA Bonds (or, if there is less than 2% net original issue discount or premium, 10% of the original stated principal amount of the WIFIA Bonds); (ii) 125% of the average WIFIA Debt Service determined as of the Effective Date; or (iii) the Maximum Annual Debt Service (as defined in the Indenture) on the WIFIA Bonds.

Schedule I-4

No.	Item	WIFIA Loan Specific Term
39.	Rate Covenant	[The rate covenant set forth in Section 6.10 of the Installment Purchase Agreement, which for reference purposes as of the Effective Date is set out below:] The City shall, subject to the remainder of this paragraph, fix, charge and collect rates, fees, and charges for the Water System during each City Fiscal Year which will be at least sufficient to yield, during each City Fiscal Year, Net Water System Revenues equal to at least: (i) one hundred ten percent (110%) of the Debt Service payable during such City Fiscal Year with respect to all outstanding City Bonds and City Contracts, and the amounts, if any, then due and owing to any Insurer under any Reserve Policy (as such terms are defined in the Installment Purchase Agreement); and (ii) the amount by which the amount on deposit in the Water System Revenue Fund on the last day of the immediately preceding City Fiscal Year was less than twenty five percent (25%) of Maximum Annual Debt Service as of such day.
40.	Additional Bonds Test	<u>The City</u> The City shall not issue or incur Additional Indebtedness, execute any City Contract or issue any City Bonds, as the case may be, in accordance herewith, unless the conditions described below are satisfied: (a) the City shall not issue or incur any Additional Obligations during the term of the WIFIA Loan Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Water System Revenues senior to the Series 2022 Installment Payments; and (b) the City may not issue or incur any Additional Obligations during the term of the WIFIA Loan Agreement unless all of the following conditions are satisfied: (i) No Event of Default has occurred and is continuing. (ii) The City obtains or provides a certificate or

No.	Item	WIFIA Loan Specific Term
		certificates prepared by an independent financial consultant (the “Consultant”) showing that: a. the Net Water System Revenues as shown by the books of the City for the twelve (12) calendar months ending 90 days prior to the end of the month in which such Additional Obligations are incurred (the “Look Back Period”), will have amounted to at least the sum of (x) one hundred ten percent (110%) of Debt Service for such Look Back Period, plus (y) the amount by which the amount on deposit in the Water System Revenue Fund on the first day of such Look Back Period was less than twenty-five percent (25%) of Maximum Annual Debt Service (as defined in the Installment Purchase Agreement for all purposes of this Additional Bonds Test) on all Outstanding City Bonds and City Contracts calculated on the first day of such Look Back Period; for purposes of preparing the certificate or certificates described above, the Consultant or Consultants may rely upon financial statements prepared by the City for all or any part of the Look Back Period, which have not been subject to audit by an Independent Certified Public Accountant if audited financial statements for the City Fiscal Year or period are not available; b. the estimated Net Water System Revenues for the twelve (12) calendar months following the date of incurring such Additional Obligations will be at least equal to one hundred ten percent (110%) of Maximum Annual Debt Service on all City Bonds and City Contracts to be outstanding immediately after the incurring of such Additional Obligations; and c. the amount on deposit in the Water System Revenue Fund on the date of incurring such Additional Obligations is at least equal to twenty-five percent (25%) of Maximum Annual Debt Service on all Outstanding City Bonds and City Contracts as of the date of incurring of such Additional Obligations. If the Additional Obligations are being issued solely to refund outstanding Obligations, and the resulting Maximum Annual Debt Service on all Outstanding City Bonds and City Contracts after incurring such Additional Obligations will not exceed the Maximum Annual Debt Service on all Obligations outstanding prior to incurring

No.	Item	WIFIA Loan Specific Term
		such Additional Obligations, the City need not comply with the provisions of paragraph (ii) above. (c) The City shall not issue or incur any Obligations for the Project that are secured by a Lien on any assets or property of the City other than the Net Water System Revenues. <u>The Borrower</u> The Borrower shall not without the prior written consent of the WIFIA Lender issue or incur obligations of any kind payable from, secured or supported by any of the Pledged Collateral and amounts to be held in any fund or account established under the Indenture or the right, title and interest of the Borrower in the Installment Purchase Agreement, to be assigned by the Borrower to the Trustee under the Indenture.
41.	Flow of Funds	The requirements and conditions specified below and in Section 4.02 of the Indenture:. The City shall deposit all Water System Revenues, when and as received, in the Water System Revenue Fund. The Water System Revenues in the Water System Revenue Fund shall be applied: (i) [To Come]
42.	[Other/TBD]	
PART E. Other Key WIFIA Loan Documents		
43.	WIFIA Bond	The bond issued and delivered by the Borrower in substantially the form of Exhibit A (<i>Form of WIFIA Bond</i>).
44.	Indenture	That certain Indenture of Trust, dated [as of] [____], 2022, between the Borrower, the City and the Trustee.
45.	Installment Purchase Agreement	That certain Installment Purchase Agreement, dated [as of] [____], 2022, between the City and the Borrower.
46.	WIFIA Term Sheet	WIFIA term sheet, dated as of [the Effective Date], between the Borrower and the WIFIA Lender.
47.	[Other/TBD]	

No.	Item	WIFIA Loan Specific Term
<i>PART F. Fees</i>		
48.	Servicing Set-Up Fee	A servicing set-up fee equal to \$118,890.00.
49.	Construction Period Servicing Fee	An annual construction period servicing fee equal to \$18,890.00.
50.	Initial Construction Period Servicing Fee	The initial Construction Period Servicing Fee in a pro-rated amount equal to \$6,290.00. ⁴
51.	Operating Period Servicing Fee	An annual operating period servicing fee equal to \$16,190.00.
<i>PART G. Borrower Related Notices</i>		
52.	Borrower notice details	City of Oxnard Financing Authority 300 West Third Street Oxnard, CA 93030 Attention: Executive Director
53.	City notice details	City of Oxnard 300 West Third Street Oxnard, CA 93030 Attention: City Manager
54.	Trustee notice details	[Name] ⁵ [Address] Attention: [] Email: []

⁴ **Note to Borrower:** The pro-rated construction servicing fee amount assumes a current closing date in May, 2022.

⁵ **Note to Borrower/Trustee:** Borrower to provide.

SCHEDULE II
PROJECT DETAILS

PART A. Project Budget.¹

SOURCES OF FUNDS	AMOUNT (\$ USD)	PERCENTAGE (%)
[]		
Total Sources of Funds		
USES OF FUNDS	AMOUNT (\$ USD)	PERCENTAGE (%)
[]		
Total Uses of Funds		
Total Eligible Project Costs		
Total Project Costs		

PART B. Construction Schedule.

Projected Substantial Completion Date: []

PROJECT ELEMENT	DESIGN COMPLETION	CONSTRUCTION START	CONSTRUCTION END

¹ To be provided by WIFIA Underwriter (in consultation with WIFIA Engineer and Borrower).

PART C. Existing Construction Contracts.²

Contract Name	Effective Date	Amount	Parties	Description

² **Note to Borrower:** Borrower to provide.

SCHEDULE III-A
BORROWER DISCLOSURES¹

PART A. Existing Indebtedness.

1. Senior Obligations

1.	[Series [] senior revenue bonds, issued pursuant to the [], dated [], maturing on []] [Loan agreement, dated [], between the Borrower and [], maturing on []]	
2.		
3.		
4.		
5.		

2. Subordinated Obligations

1.	[Series [] subordinate revenue bonds], issued pursuant to the [], dated [], maturing on [] [Loan agreement, dated [], between the Borrower and [], maturing on []]	
2.		
3.		
4.		
5.		

¹ **Note to Borrower:** Borrower to complete.

PART B. Litigation Disclosure.

[]²

No.	Parties	Date Initiated	Description / Status	Venue

PART C. Environmental Matter Disclosure.

[]³

² Include “None” if no litigation disclosures are necessary.

³ Include “None” if no environmental matter disclosures are necessary.

SCHEDULE III-B
CITY DISCLOSURES¹

PART A. Existing Indebtedness.

1. Senior Obligations

1.		
2.		
3.		
4.		
5.		

2. Subordinated Obligations

1.		
2.		
3.		
4.		
5.		

¹ **Note to City:** City to complete.

PART B. Litigation Disclosure.

[]²

No.	Parties	Date Initiated	Description / Status	Venue

PART C. Environmental Matter Disclosure.

[]³

² Include “None” if no litigation disclosures are necessary.

³ Include “None” if no environmental matter disclosures are necessary.

SCHEDULE IV

REQUISITION PROCEDURES

This **Schedule IV** sets out the procedures which the City agrees to follow in submitting Requisitions for any Disbursement of the WIFIA Loan. Pursuant to the Installment Purchase Agreement, the Borrower has appointed the City as its agent to request funds from time to time under this Agreement and the City has accepted such appointment and assumed all rights, liabilities, duties and responsibilities of the Borrower under this Agreement regarding the requisition of funds from time to time under this Agreement.¹⁵ The City expressly agrees to the terms hereof, and further agrees that (i) the rights of the WIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the WIFIA Lender under the WIFIA Loan Documents, and (ii) nothing contained herein shall be construed to limit the rights of the WIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the City if it fails to carry out its obligations under the WIFIA Loan Agreement during the term thereof.

PART A. General Requirements.

(a) Manner of Request: All requests by the City for a Disbursement shall be made in writing by electronic submission to the WIFIA Lender, in accordance with Section 35 (*Notices*) of the WIFIA Loan Agreement.

(b) Required Documentation: Any request by the City should include the submission of:

(i) a Requisition, in the form attached as **Exhibit D** (*Form of Requisition*), completed and executed by the City's Authorized Representative, and otherwise in form and substance satisfactory to the WIFIA Lender; and

(ii) all Eligible Project Costs Documentation that has not otherwise been provided to the WIFIA Lender in accordance with **Part C of Schedule V** (*Reporting Requirements*) of the WIFIA Loan Agreement.

(c) Timing: Any request for a Disbursement must be received by the WIFIA Lender and the Servicer (if any) at or before 5:00 P.M. (Eastern Time) on either:

(i) the first (1st) Business Day of a calendar month in order to obtain the requested Disbursement by the fifteenth (15th) day of such calendar month;

(ii) the fifteenth (15th) day of a calendar month, in order to obtain the requested Disbursement by the first (1st) day of the immediately following calendar month;

provided, that, (x) if any such day is not a Business Day, the Disbursement request or payment (as the case may be) shall be made by the next succeeding Business Day; (y)

¹⁵ **Note to Borrower**: Please add appointment language to Installment Purchase Agreement.

the City shall not request to receive more than one (1) Disbursement per month or every thirty (30) days (whichever is longer); and (z) no Disbursements shall be made after the Final Disbursement Date.

PART B. WIFIA Lender Review Process.

(a) The WIFIA Lender shall review the Requisition and the Eligible Project Costs Documentation for compliance with WIFIA Disbursement requirements.

(b) If a Requisition is approved by the WIFIA Lender, the WIFIA Lender will notify [the Borrower][and][the City] of such approval and of the amount so approved. A Requisition containing an apparent mathematical error will be corrected by the WIFIA Lender, after telephonic or email notification to [the Borrower][and][the City], and will thereafter be treated as if submitted in the corrected amount. If the amount requested for Disbursement in the Requisition exceeds the available balance of the WIFIA Loan proceeds remaining to be disbursed, the Disbursement request will be treated as if submitted in the amount of the balance so remaining, and the WIFIA Lender will so notify [the Borrower][and][the City].

(c) The WIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the Disbursement of WIFIA Loan proceeds if: (i) a Default or an Event of Default shall have occurred and be continuing or (ii) the Borrower or the City (1) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable law, in connection with the transactions contemplated hereby; (2) prevents or materially impairs the ability of the WIFIA Lender to monitor compliance by the Borrower or the City with applicable law pertaining to the Project or with the terms and conditions of the WIFIA Loan Agreement; (3) fails to observe or comply with any applicable law, or any term or condition of the WIFIA Loan Agreement; (4) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent to Disbursements*) of the WIFIA Loan Agreement; or (5) fails to deliver Eligible Project Costs Documentation satisfactory to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement; provided, that in such case of sub-clause (5) above, the WIFIA Lender may, in its sole discretion, partially approve a Requisition in respect of any amounts for which adequate Eligible Project Costs Documentation has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts. The WIFIA Lender will notify [the Borrower][and][the City] of any withholding, and the reasons therefor.

(d) A Requisition may be rejected in whole or in part by the WIFIA Lender if it is: (i) submitted without signature; (ii) submitted under signature of a Person other than a City's Authorized Representative; (iii) submitted after prior Disbursement of all proceeds of the WIFIA Loan; or (iv) submitted without adequate Eligible Project Costs Documentation. The WIFIA Lender will notify [the Borrower][and][the City] of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified under this paragraph (d) must be resubmitted in proper form in order to be considered for approval.

SCHEDULE V
REPORTING REQUIREMENTS

PART A. Updated Financial Model/Plan.

The City shall provide to the WIFIA Lender, not later than one hundred eighty (180) days after the end of each City Fiscal Year, an Updated Financial Model/Plan. The Updated Financial Model/Plan shall reflect the City's reasonable expectations, using assumptions that the City believes to be reasonable, and include: (a) the City's capital improvement plan, major maintenance plan, projected rates and charges, projected debt outstanding and annual debt service, projected Revenues and projected Operating Expenses for a reasonable projection period consistent with the City's operating and financial planning and demonstrating that the City has developed and identified adequate revenues to implement a plan for operating, maintaining, and repairing the Project; (b) evidence of compliance with the Rate Covenant for the most recent City Fiscal Year for which the City's Financial Statements are available and the projected debt service coverage ratios (including projected Rate Covenant coverages) through the Forecast Period; and (c) a written narrative identifying any material changes to the underlying assumptions from the previous Updated Financial Model/Plan.

PART B. Annual Financial Statements.

The City shall deliver to the WIFIA Lender, as soon as available, but no later than one hundred eighty (180) days after the end of each City Fiscal Year, a copy of the audited income statement and balance sheet of the City as of the end of such City Fiscal Year and the related audited statements of operations and of cash flow of the City for such City Fiscal Year, (a) setting forth in each case in comparative form the figures for the previous fiscal year, (b) certified without qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the City, and (c) which shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except, with respect to the annual financial statements, for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

PART C. Construction Monitoring.

(a) The WIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development of the Project, including environmental compliance, design, and construction of the Project. The City shall be responsible for administering construction oversight of the Project in accordance with applicable federal, state and local governmental requirements. The City agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation or other information as shall be requested by the WIFIA Lender or its agents, including any independent engineer reports, documentation or information.

(b) Construction Monitoring Report. During the period beginning from the first quarter following bid advertisement of the first Construction Contract for the Project, through and until Substantial Completion of the Project, the City shall furnish to the WIFIA Lender, on a quarterly basis, the Construction Monitoring Report. The report shall be delivered to the WIFIA Lender within thirty (30) days of the end of each such quarter (or if such day is not a Business Day, on the next following Business Day). If the then-current projection for the Substantial Completion Date is a date different than the Projected Substantial Completion Date, the City shall provide in the Construction Monitoring Report a description in reasonable detail to the reasonable satisfaction of the WIFIA Lender of the reasons for such projected delay or difference. The Projected Substantial Completion Date shall automatically be adjusted to the new date specified by the City in the Construction Monitoring Report unless the WIFIA Lender objects to the adjustment in writing to the City within sixty (60) days following receipt of such Construction Monitoring Report on the basis that such report does not demonstrate the matters specified in this paragraph.

(c) Quarterly Certification of Eligible Project Costs. If requested by the WIFIA Lender, on a basis not more frequently than quarterly, the City shall submit to the WIFIA Lender, concurrently with the delivery of the Construction Monitoring Report, a certificate, in the form of **Exhibit E** (*Form of Certification of Eligible Project Costs Documentation*), signed by the City's Authorized Representative, and attaching Eligible Project Costs Documentation as applicable. If there are no applicable Eligible Project Costs for such quarter, the City may notify the WIFIA Lender by written confirmation of the same by email in accordance with Section 35 (*Notices*) of the WIFIA Loan Agreement. Within sixty (60) days following the receipt of such certificate and accompanying Eligible Project Costs Documentation (if applicable), the WIFIA Lender shall notify the City confirming (i) which Eligible Project Costs incurred by the City set forth in the certification have been approved or denied (and, if denied, the reasons therefor) and (ii) the cumulative amount of Eligible Project Costs that have been approved as of the date of such notice. Any such approved amounts of Eligible Project Costs shall then be deemed to be available for Disbursement at such time as the City submits a Requisition in respect of such approved amounts in accordance with Section 4 (*Disbursement Conditions*).

(d) Final Specifications. The City shall deliver to the WIFIA Lender, prior to bid advertisement for the Project (including each sub-project or component, if applicable), a copy of the final specifications relating to the development and construction of the Project (or such sub-project or component, as the case may be), demonstrating compliance with all applicable federal requirements and including a summary of the scope of work thereunder.

(e) [Reserved]

PART D. Public Benefits Report.

The City shall deliver to the WIFIA Lender the Public Benefits Report (a) no later than thirty (30) days prior to the Effective Date, (b) within ninety (90) days following the Substantial Completion Date and (c) within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date. The Borrower and the City each agree that information described in the Public Benefits Report may be made publicly available by the WIFIA Lender at its discretion.

PART E. Notices.

(a) The Borrower and the City shall each, within fifteen (15) days (or such other time as may be specified below) after the Borrower or the City, as applicable, learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

(i) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit G** (*Form of Certificate of Substantial Completion*);

(iii) Defaults; Events of Default: any Default or Event of Default;

(iv) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower or the City, as applicable, before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, that could reasonably be expected to have a Material Adverse Effect, and (2) any final, non-appealable judgment related to the Pledged Collateral, Water System Revenues or Net Water System Revenues, that could reasonably be expected to result in the impairment of (A) the Borrower's or the City's ability to comply with any of its payment obligations under the WIFIA Bond or this Agreement, as applicable, or (B) the existence, priority or perfection (if applicable) of the WIFIA Lender's security interest in the Pledged Collateral or the Borrower's security interest in the Net Water System Revenues;

(v) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the City's plans to remedy or mitigate the effects of such failure or delay;

(vi) Environmental Notices: any material notice of violation related to the Project or any material change to the Project that could reasonably be expected to affect the NEPA Determination;

(vii) Amendments: except as otherwise agreed by the WIFIA Lender in writing, copies of any fully executed amendments, modifications, replacements or supplements to any Related Document; provided, that such notice may be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(viii) Related Document Defaults: any material breach or default or event of default on the part of the Borrower or the City or any other party under any Related Document; provided, that such notice may be accomplished through the posting

of the relevant documents on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(ix) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to materially and adversely affect the Project;

(x) Ratings Changes: any change in the rating assigned to the WIFIA Loan or any Obligations, in each case by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness, and any notices, reports or other written materials (other than those that are ministerial in nature) received from any such rating agencies; provided, that such notice may be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(xi) 2 C.F.R. § 180.350 Notices: any notification required pursuant to 2 C.F.R. § 180.350, whether attributable to a failure by the Borrower or the City to disclose information previously required to have been disclosed or due to the Borrower or the City or any of its principals meeting any of the criteria set forth in 2 C.F.R. § 180.335;

(xii) Issuance of Obligations: copies of any final issuing instrument (together with any continuing disclosure documents, ordinances, official statement, certifications or cash flow projections in connection therewith), prepared in connection with the incurrence of any Permitted Debt (including any Additional Obligations), together with a confirmation by the Borrower or the City, as applicable, that such additional indebtedness satisfies the applicable requirements under the definition of “Permitted Debt”; provided, that such notice may be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(xiii) Postings on EMMA: the posting of any document on EMMA in accordance with the requirements of any continuing disclosure agreement or similar document with respect to any Outstanding Obligations relating to annual financial information and operating data and the reporting of significant events; provided, that such notice may be accomplished through the posting of the relevant document on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(xiv) SAM / UEI: any change in the Borrower’s or the City’s SAM registration status (including any exclusions, expiration or inactive registration) or UEI Number (including any expiration or change in effectiveness); provided, that such notice may be accomplished through the posting of the relevant document on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(xv) Reorganization, Consolidation or Merger: the occurrence of any reorganization, consolidation, or merger, together with the agreements and documents authorizing the reorganization, consolidation or merger; and

(xvi) Fiscal Year: any change to or adoption by the Borrower of any fiscal year other than the Initial Borrower Fiscal Year or any change to or adoption of any fiscal year by the City other than the previously applicable City Fiscal Year; provided, that such notice may be accomplished through the posting of the relevant document on EMMA under the WIFIA CUSIP Number with a reference to the relevant WIFIA provision of this Agreement;

(xvii) Other Adverse Events: the occurrence of any other event or condition, including without limitation any notice of breach from a contract counterparty or any holder of any Obligations, that could reasonably be expected to result in a Material Adverse Effect; and

(xviii) Draws on WIFIA Debt Service Reserve Account: the occurrence of any draws on the WIFIA Debt Service Reserve Account to fund payments of interest on or principal of the WIFIA Bond when due.

(b) The Borrower and the City each shall, at any time while the WIFIA Loan remains Outstanding, promptly deliver to the WIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or the City or regarding the Water System, the Project or the Water System Revenues as the WIFIA Lender may from time to time reasonably request. The Borrower and the City each agrees that the delivery of any documents or information under and pursuant to this Agreement shall not be construed as compliance with, or affect in any manner, any obligations of the Borrower or the City under any other contracts, agreements, decrees, Governmental Approvals, or other documents with EPA (other than the WIFIA Loan Documents) or the Federal Government.

SCHEDULE VI
WIFIA LOAN AMORTIZATION SCHEDULE¹

[To be attached with final interest rate on the Effective Date]

¹ WIFIA Underwriter to work with Borrower to provide an initial amortization schedule that is shared with the transaction team prior to closing. The final schedule will be finalized on the day of closing to account for the final interest rate.

EXHIBIT A

FORM OF WIFIA BOND

THE CITY OF OXNARD FINANCE AUTHORITY

AQUIFER STORAGE RECOVERY PROJECT

(WIFIA ID – N20107CA)

WIFIA BOND

Interest Rate	Final Maturity Date	Dated Date	WIFIA CUSIP
%, subject to the Default Rate (as defined and in accordance with the WIFIA Loan Agreement)	July 1, 2062 , subject to adjustment as set forth in the WIFIA Loan Agreement		
Registered Owner	UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator of the Environmental Protection Agency		
Maximum Principal Amount	\$ (excluding capitalized interest, if any)		

THE CITY OF OXNARD FINANCE AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns (the “**WIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all Disbursements made by the WIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the WIFIA Loan Agreement (as defined below), being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the WIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in that certain WIFIA Loan Agreement, dated as of the date hereof, between the WIFIA Lender, the Borrower and the City of Oxnard, a municipal corporation duly organized and existing under the laws of the State of California (the “**City**”)

(the “WIFIA Loan Agreement”). All capitalized terms used in this WIFIA Bond and not defined herein shall have the meanings set forth in the WIFIA Loan Agreement.

The WIFIA Debt Service hereof shall be payable in the amounts, manner and on the Payment Dates as set forth in the WIFIA Loan Amortization Schedule in accordance with the WIFIA Loan Agreement (which WIFIA Loan Amortization Schedule may be revised from time to time in accordance with the WIFIA Loan Agreement), until paid in full (which Loan Amortization Schedule, as modified from time to time in accordance with the terms of the WIFIA Loan Agreement, is incorporated in and is a part of this WIFIA Bond). The WIFIA Lender is hereby authorized to modify the WIFIA Loan Amortization Schedule from time to time to reflect the amount of each Disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder and otherwise in accordance with the terms of the WIFIA Loan Agreement. Absent manifest error, the WIFIA Lender’s determination of such matters as set forth on the WIFIA Loan Amortization Schedule to the WIFIA Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower’s obligations hereunder or under any other WIFIA Loan Document.

Payments hereon are to be made in accordance with Section 8(b) (*Manner of Payment*) and Section 35 (*Notices*) of the WIFIA Loan Agreement as the same become due. Principal of and interest on this WIFIA Bond shall be made in Dollars and in immediately available funds (without counterclaim, offset or deduction). Any payment in respect of the WIFIA Bond shall be treated as a payment in respect of the WIFIA Loan and any prepayment of principal in respect of the WIFIA Loan shall be treated as a redemption in respect of the WIFIA Bond. If the Final Maturity Date is adjusted in accordance with the WIFIA Loan Agreement, the due date of this WIFIA Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the WIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this WIFIA Bond without the prior written agreement of the WIFIA Lender. Any such amendment shall be reflected in a revised Loan Amortization Schedule.

This WIFIA Bond has been executed under and pursuant to the WIFIA Loan Documents and is issued to evidence the obligation of the Borrower under the WIFIA Loan Documents to repay the loan made by the WIFIA Lender and any other payments of any kind required to be paid by the Borrower under the WIFIA Loan Agreement or the other WIFIA Loan Documents referred to therein. Reference is made to the WIFIA Loan Agreement for all details relating to the Borrower’s obligations hereunder.

Payment of the obligations of the Borrower under this WIFIA Bond is secured pursuant to the Indenture. This WIFIA Bond is a Bond (as such term is defined in the Indenture), entitled to all of the benefits of a Bond under the Indenture. The Lien on the Pledged Collateral securing this WIFIA Bond for the benefit of the WIFIA Lender is (i) the exclusive senior priority Lien with respect to the Pledged Collateral and (ii) senior in right of payment and right of security to the Lien on the Pledged Collateral in favor of the Subordinated Obligations.

This WIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in

accordance with the WIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1 in excess thereof), without penalty or premium, and otherwise in accordance with the WIFIA Loan Agreement.

Any delay on the part of the WIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

All acts, conditions and things required by the Constitution and laws of the State to happen, exist, and be performed precedent to and in the issuance of this WIFIA Bond have happened, exist and have been performed as so required. This WIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State shall govern its construction to the extent such federal laws are not applicable.

IN WITNESS WHEREOF, THE CITY OF OXNARD FINANCE AUTHORITY has caused this WIFIA Bond to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date set forth above.

**THE CITY OF OXNARD FINANCE
AUTHORITY,**
by its authorized representative

(SEAL)

By: _____
Name:
Title:

ATTEST:

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This WIFIA Bond is the WIFIA Bond described in the within-mentioned Indenture.

COMPUTERSHARE TRUST COMPANY,
N.A.,

By: _____
Authorized Signer

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the Undersigned hereby unconditionally sells, assigns
and transfers unto

(Please Insert Social Security or other identifying number of Assignee(s)):

the within WIFIA Bond and all rights thereunder.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within note in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B-1

FORM OF BORROWER CLOSING CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of [____], 2022 (the “**WIFIA Loan Agreement**”), by and among the City of Oxnard Finance Authority (the “**Borrower**”), the City of Oxnard (the “**City**”), and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement.

In connection with Section 11(a) (*Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the undersigned, as the Borrower’s Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

- (a) pursuant to Section 11(a)(v) of the WIFIA Loan Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the WIFIA Loan Documents to which the Borrower is or will be a party, and who have been appointed as a Borrower’s Authorized Representative in accordance with Section 25 (*Borrower’s and City’s Authorized Representatives*) of the WIFIA Loan Agreement;
- (b) pursuant to Section 11(a)(ii) of the WIFIA Loan Agreement, the Borrower has delivered to the WIFIA Lender copies of (i) the Indenture, together with any amendments, supplements, waivers or modifications thereto (but excluding any document that solely provides for the issuance or incurrence of Additional Obligations, hedging Obligations or Interim Financing) and (ii) any Related Document with respect to which all or a portion of the proceeds are or will be applied to fund all or any portion of Total Project Costs, in each case that has been entered into on or prior to the Effective Date, and each such document is complete, fully executed, and in full force and effect, and all conditions contained in the Related Documents that are necessary to the closing of the WIFIA transaction contemplated hereby (if any) have been fulfilled;
- (c) pursuant to Section 11(a)(v)(A) of the WIFIA Loan Agreement, (i) the maximum principal amount of the WIFIA Loan (excluding any capitalized interest), together with the amount of any other credit assistance provided under the Act to the Borrower and the City, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs; (ii) the aggregate amount of Eligible Project Costs previously incurred prior to the Effective Date does not exceed fifty-one percent (51%) of Eligible Project Costs; and (iii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any capitalized interest), does not exceed eighty percent (80%) of Total Project Costs;

- (d) pursuant to Section 11(a)(v)(C) of the WIFIA Loan Agreement, the Borrower has (i) obtained a FEIN, as evidenced by the Borrower's W-9 which is attached hereto as Annex B-1, and a UEI Number, in each case as set forth on Part A of Schedule I (*WIFIA Loan Specific Terms*) to the WIFIA Loan Agreement, and (ii) registered with, and obtained confirmation of active SAM registration status, which confirmation is attached hereto as Annex B-2;
- (e) pursuant to Section 11(a)(v)(D) of the WIFIA Loan Agreement, the Borrower has obtained the WIFIA CUSIP Number, as set forth on Part A of Schedule I (*WIFIA Loan Specific Terms*) to the WIFIA Loan Agreement, and which confirmation is attached hereto as Annex C;
- (f) pursuant to Section 11(a)(v)(E) of the WIFIA Loan Agreement, the representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;
- (g) pursuant to Section 11(a)(v)(F) of the WIFIA Loan Agreement, no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the date of the Application; and
- (h) pursuant to Section 11(a)(vi) of the WIFIA Loan Agreement, the rating letter delivered to the WIFIA Lender pursuant to such Section 11(a)(vi) has not been reduced, withdrawn or suspended as of the Effective Date.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

**THE CITY OF OXNARD FINANCE
AUTHORITY,**
by its authorized representative

By: _____
Name:
Title:

ANNEX A TO EXHIBIT B-1

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [Secretary] of the City of Oxnard Finance Authority, a joint exercise of powers agency duly organized and existing under the state of California, (the “**Borrower**”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents as the Borrower’s Authorized Representative (each as defined in that certain WIFIA Loan Agreement, dated as of the date hereof, between the Borrower, the City of Oxnard, and the United States Environmental Protection Agency, acting by and through the Administrator):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of [____], 20[____].

**THE CITY OF OXNARD FINANCE
AUTHORITY,**
by its authorized representative

By: _____
Name:
Title:

EXHIBIT B-2

FORM OF CITY CLOSING CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of [____], 2022 (the “**WIFIA Loan Agreement**”), by and among the City of Oxnard Finance Authority (the “**Borrower**”), the City of Oxnard (the “**City**”), and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement.

In connection with Section 11(a) (*Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the undersigned, as the City’s Authorized Representative, does hereby certify on behalf of the City and not in his/her personal capacity, as of the date hereof:

- (a) pursuant to Section 11(a)(v) of the WIFIA Loan Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the City to execute the WIFIA Loan Documents to which the City is or will be a party, and who have been appointed as a City’s Authorized Representative in accordance with Section 25 (*Borrower’s and City’s Authorized Representatives*) of the WIFIA Loan Agreement;
- (b) pursuant to Section 11(a)(ii) of the WIFIA Loan Agreement, the City has delivered to the WIFIA Lender copies of (i) the Indenture, together with any amendments, supplements, waivers or modifications thereto (but excluding any document that solely provides for the issuance or incurrence of Additional Obligations, hedging Obligations or Interim Financing) and (ii) any Related Document with respect to which all or a portion of the proceeds are or will be applied to fund all or any portion of Total Project Costs, in each case that has been entered into on or prior to the Effective Date, and each such document is complete, fully executed, and in full force and effect, and all conditions contained in the Related Documents that are necessary to the closing of the WIFIA transaction contemplated hereby (if any) have been fulfilled;
- (c) pursuant to Section 11(a)(v)(A) of the WIFIA Loan Agreement, (i) the maximum principal amount of the WIFIA Loan (excluding any capitalized interest), together with the amount of any other credit assistance provided under the Act to the Borrower and the City, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs; (ii) the aggregate amount of Eligible Project Costs previously incurred prior to the Effective Date does not exceed fifty-one percent (51%) of Eligible Project Costs; and (iii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any capitalized interest), does not exceed eighty percent (80%) of Total Project Costs;

- (d) pursuant to Section 11(a)(v)(B) of the WIFIA Loan Agreement, the City is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project;
- (e) pursuant to Section 11(a)(v)(C) of the WIFIA Loan Agreement, the City has (i) obtained a FEIN, as evidenced by the City's W-9 which is attached hereto as Annex B-1, and a UEI Number, in each case as set forth on Part A of Schedule I (*WIFIA Loan Specific Terms*) to the WIFIA Loan Agreement, and (ii) registered with, and obtained confirmation of active SAM registration status, which confirmation is attached hereto as Annex B-2;
- (f) pursuant to Section 11(a)(v)(E) of the WIFIA Loan Agreement, the representations and warranties of the City set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document to which the City is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;
- (g) pursuant to Section 11(a)(v)(F) of the WIFIA Loan Agreement, no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the date of the Application; and

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

THE CITY OF OXNARD,
by its authorized representative

By: _____
Name:
Title:

ANNEX A TO EXHIBIT B-2

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [Secretary] of the City of Oxnard, a municipal corporation duly organized and existing under the state of California, (the “**City**”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the City in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents as the City’s Authorized Representative (each as defined in that certain WIFIA Loan Agreement, dated as of the date hereof, between the City of Oxnard Finance Authority, the City and the United States Environmental Protection Agency, acting by and through the Administrator):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of [____], 20[____].

THE CITY OF OXNARD,
by its authorized representative

By: _____
Name:
Title:

EXHIBIT C

FORM OF PUBLIC BENEFITS REPORT

Pursuant to Section 11(a)(vii) and Part D of Schedule V (*Reporting Requirements*) of the WIFIA Loan Agreement (as defined below), the City of Oxnard Finance Authority (the “**Borrower**”) and the City of Oxnard (the “**City**”) are providing this Public Benefits Report in connection with the Aquifer Storage Recovery (ASR) Project (WIFIA ID – N20107CA). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement dated [on or about the date hereof][____] (the “**WIFIA Loan Agreement**”), between the Borrower, the City and the United States Environmental Protection Agency, acting by and through the Administrator.

Reporting Period: [Prior to the Effective Date][within ninety (90) days following the Substantial Completion Date][within ninety (90) following the fifth (5th) anniversary of the Substantial Completion Date]

- (i) **The number of total jobs and direct jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date:**

WIFIA projects that the Project will create [____] total jobs, of which the Borrower projects [____] will be direct jobs.

- (ii) **Indicate (yes or no) whether the Project will assist the Borrower in complying with applicable regulatory requirements, and if yes, describe how the project assists with regulatory compliance:**

Yes ☐

If yes, additional description: [____]

No ☐

- (iii) **The Project will assist the Borrower with the following environmental measure:**

Measure(s): The amount by which the Project will increase the volume of water recycled, recharged, or redirected (measured in MGD capacity at Substantial Completion).

Value: [14.4 MGD (5 wells at 2.88 MGD capacity each)].

EXHIBIT D

FORM OF REQUISITION

VIA EMAIL

United States Environmental Protection Agency¹
1200 Pennsylvania Avenue NW
WJC-E 7334A
Washington, D.C. 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Re: Aquifer Storage Recovery (ASR) Project (WIFIA ID – N20107CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) and Schedule IV (*Requisition Procedures*) of the WIFIA Loan Agreement, dated as of [date] (the “**WIFIA Loan Agreement**”), by and between THE CITY OF OXNARD FINANCE AUTHORITY (the “**Borrower**”), THE CITY OF OXNARD (the “**City**”), and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), the Borrower and the City hereby request a Disbursement in the amount set forth below in respect of Eligible Project Costs paid or incurred by the Borrower and the City. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement.

In connection with this Requisition, the undersigned, as the Borrower’s Authorized Representative (except with respect to item 19) and the City’s Authorized Representative (except with respect to item 18), hereby represent and certify the following:

1.	Project name	Aquifer Storage Recovery (ASR) Project
2.	Borrower name	The City of Oxnard Finance Authority
3.	WIFIA Loan ID	N20107CA
4.	Borrower UEI Number	
5.	Borrower FEIN number	
6.	City UEI Number	
7.	City FEIN number	
8.	Requisition number	
9.	Requested Disbursement amount	\$()
10.	Requested date of Disbursement	

¹ If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

	(the “Disbursement Date”)²	
11.	Total amounts previously disbursed under the WIFIA Loan Agreement	\$[]
12.	Wire or ACH transfer instructions (please specify method)	[]

13. As of the date hereof, and immediately after giving effect to the Disbursement of WIFIA Loan proceeds requested under this Requisition, (a) no Default or Event of Default and no event of default under any other Related Document shall have occurred and be continuing and (b) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any other Related Document, shall have occurred and be continuing.
14. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since the Effective Date.
15. The aggregate amount of all Disbursements (including the requested Disbursement amount under this Requisition but excluding any interest that is capitalized in accordance with the WIFIA Loan Agreement) does not exceed (a) the maximum principal amount of the WIFIA Loan or (b) the amount of Eligible Project Costs paid or incurred by the Borrower.
16. The Eligible Project Costs for which reimbursement or payment is being requested has not been reimbursed or paid by any previous disbursement of (a) WIFIA Loan proceeds or (b) any other source of funding for the Project as identified in the Project Budget.
17. The City, and each of the City’s contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products). Supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender.
18. The representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties are true and correct as of such earlier date).
19. The representations and warranties of the City set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties

² Note this should be the actual disbursement date on which the Borrower requests to receive the funds, not the date that this Requisition form is submitted to the WIFIA Lender.

expressly relate to an earlier date (in which case, such representations and warranties are true and correct as of such earlier date).

20. The Borrower has delivered all required deliverables under and in compliance with the requirements of Schedule V (*Reporting Requirements*), except as has been otherwise agreed by the WIFIA Lender.³
21. The amount hereby being requested for Disbursement is with respect to Eligible Project Costs for which [all][a portion][none] of the Eligible Project Costs Documentation was previously submitted to and approved by the WIFIA Lender in accordance with Schedule IV (*Requisition Procedures*) and Schedule V (*Reporting Requirements*) of the WIFIA Loan Agreement. The [following table below][attached excel sheet] sets out a summary of any Eligible Project Costs that have not otherwise been previously submitted to the WIFIA Lender for approval, and supporting Eligible Project Costs Documentation in respect of such new Eligible Project Costs is attached hereto.⁴

								WIFIA USE ONLY	
Vendor or Contractor Name ⁵	Invoice Number ⁶	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ⁷	Activity Type ⁸	Description of Activity ⁹	Approved Amount	Notes

The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.

³ The most recent quarterly progress report should set out a summary of the progress of construction of the Project, as well as a general description of the work done for which the funds being requisitioned are being applied and a summary of any material changes/risks. If not, PM should request additional information (including a risk register, if applicable).

⁴ See Schedules IV, V and Exhibit E of the WIFIA Loan Agreement for additional details on EPC Documentation.

⁵ If seeking reimbursement for internal costs, enter "Internally financed activities."

⁶ Vendor's number indicated on the invoice sent to the Borrower.

⁷ If the amount requested for reimbursement by the WIFIA Lender is less than the total amount of the invoice, include an explanation for the difference.

⁸ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation in the "Description of Activity" column.

⁹ Provide a brief description of the activities included in the invoice for which WIFIA funds are being requested and any other notes that will aid in the review of the disbursement request.

Date: _____

THE CITY OF OXNARD FINANCE
AUTHORITY,
by its authorized representative

By: _____

Name:

Title: _____

The undersigned acknowledges that if the City makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the City the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.

Date: _____

THE CITY OF OXNARD,
by its authorized representative

By: _____

Name:

Title: _____

EXHIBIT E

FORM OF CERTIFICATION OF ELIGIBLE PROJECT COSTS DOCUMENTATION

VIA EMAIL

United States Environmental Protection Agency¹
1200 Pennsylvania Avenue NW
WJC-E 7334A
Washington, D.C. 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Re: Aquifer Storage Recovery (ASR) Project (WIFIA ID – N20107CA)

Ladies and Gentlemen:

Pursuant to Part C of Schedule V (*Reporting Requirements*) of the WIFIA Loan Agreement, dated as of [date] (the “**WIFIA Loan Agreement**”), by and between THE CITY OF OXNARD FINANCE AUTHORITY (the “**Borrower**”), THE CITY OF OXNARD (the “**City**”), and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), the Borrower hereby presents this certificate in connection with the Borrower’s delivery of Eligible Project Costs Documentation to the WIFIA Lender. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement.

The undersigned does hereby represent and certify the following:

1. This certificate is being delivered to the WIFIA Lender in connection with the Eligible Project Costs during the period between [] and [] (the “**Quarterly Period**”).
2. A summary of the Eligible Project Costs incurred, invoiced and/or paid (as the case may be) is set out in the [attached excel sheet][table on the following page:]

¹ If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

							WIFIA USE ONLY	
Vendor or Contractor Name ²	Invoice Number ³	Invoice Date	Payment Date	Invoice Amount	Activity Type ⁴	Description of Activity ⁵	Approved Amount	Notes

3. The anticipated sources of funding for such Eligible Project Costs are [listed below][set forth in the attached excel sheet].
4. Supporting Eligible Project Costs Documentation for the above Eligible Project Costs for the Quarterly Period are also attached hereto.⁶
5. The most recently delivered Construction Monitoring Report delivered in accordance with Part C of Schedule V (*Reporting Requirements*) sets out a summary of the progress of construction of the Project, no change has occurred since the date of such Construction Monitoring Report that could reasonably be expected to cause a Material Adverse Effect, and the Borrower is otherwise in compliance with Part C of Schedule V (*Reporting Requirements*).

Date: _____

**THE CITY OF OXNARD FINANCE
AUTHORITY ⁷**

By: _____

Name: _____

Title: _____

² If the expectation is to seek reimbursement for internal costs, enter "Internally financed activities."

³ Vendor's number indicated on the invoice sent to the Borrower.

⁴ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest on other Project Obligations during construction, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation in the "Description of Activity" column.

⁵ Provide a brief description of the activities included in the invoice for which WIFIA funds are being requested and any other notes that will aid in the review of the documentation.

⁶ See Schedules IV and V of the WIFIA Loan Agreement for additional details on EPC Documentation.

⁷ To be executed by the Borrower's Authorized Representative.

EXHIBIT F

FORM OF CONSTRUCTION MONITORING REPORT

VIA EMAIL

United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
WJC-E 7334A
Washington, DC 20460
Attn: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Re: Aquifer Storage Recovery (ASR) Project (WIFIA ID – N20107CA)

This Construction Monitoring Report for the period of *[insert relevant quarterly period]* (the “**Quarterly Period**”) is provided pursuant to Part D of Schedule V (*Reporting Requirements*) of the WIFIA Loan Agreement, dated as of *[date]* (the “**WIFIA Loan Agreement**”), by and between THE CITY OF OXNARD FINANCE AUTHORITY (the “**Borrower**”), THE CITY OF OXNARD (the “**City**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Unless otherwise defined herein, all capitalized terms in this Construction Monitoring Report have the meanings assigned to those terms in the WIFIA Loan Agreement.

1. **Project Status.** Provide a narrative summary of the Project’s construction progress during the Quarterly Period, including with respect to the Project components or sub-projects where appropriate. Complete the table in Appendix A to update the Project scope, schedule, and costs with the latest information.

--

2. **Current Projected Substantial Completion Date:**

--

If the current Projected Substantial Completion Date differs than the date set forth in the Construction Monitoring Report most recently delivered to the WIFIA Lender (or, if no such report has yet been provided, the date of the Projected Substantial Completion Date set forth in the WIFIA Loan Agreement as of the Effective Date), provide a description in reasonable detail for such projected delay or difference:

--

3. **Material Problems (if any)**

Note any problems encountered or anticipated during the construction of the Project during the Quarterly Period that (1) impedes Project completion within the scope, costs, and schedule outlined in the WIFIA Loan Agreement or (2) relates to unforeseen complications in connection with the construction of the Project. This may include commissioning/start-up issues, constructability issues for the Project as planned, adverse impacts to Project surroundings, changes in or issues with meeting environmental or federal compliance requirements, and unanticipated or abnormal permit approval timelines. Include an assessment of the impact and any current plans to address the problems.

4. Other Matters Related to the Project (if applicable)

Date: _____

**THE CITY OF OXNARD FINANCE
AUTHORITY**

By: _____

Name: _____

Title: _____

APPENDIX A ^{1 / 2}

Project Scope		Project Schedule						Project Costs		
Project Component	Completed (Y/N)	Contract/Vendor	Bid Advertisement Date	Contract Award Date	NTP Effective Date	Original Substantial Completion Date	Estimated Substantial Completion Date	Original Contract Amount	Estimated Costs to Complete	Costs Earned or Paid to Date
Total										

Project Scope					Project Schedule						Project Costs		
Project Component	Complete (Y/N)	Description	Location	Covered by existing NEPA?	Contract/Vendor	Bid Advertisement Date	Contract Award Date	NTP Effective Date	Original Substantial Completion Date	Estimated Substantial Completion Date	Original Contract Amount	Estimated Costs to Complete	Costs Earned or Paid to Date
Total													

Table Definitions:

Project Component – project name or ID as tracked by the borrower

Complete (Y/N) – indication that project is complete, and no additional updates will be provided

Description (program of projects only) – brief overview of scope of work for the project component.

Location (program of projects only) – physical project boundaries

Covered by existing NEPA? (program of projects only) – refer to the environmental review documents that is the basis for the NEPA finding. Is the project within the geographic scope and scope of activities described in the documents?

Contract/Vendor – the contract identifier and contractor that is/will be completing the project construction.

Bid Advertisement Date – the date the bid was advertised

Contract Award date – the date the contract was awarded

NTP Effective date – the effective date to proceed with the construction in the Notice to Proceed

Original Substantial Completion Date – the substantial completion date for the given project as noted in the original contract award

Estimated Substantial Completion Date – the latest date estimate for substantial completion for the given project component

Original Contract Amount – the original contract award amount

Estimated Costs to Complete – the latest cost estimates to complete the given project component

Costs Earned or Paid to Date – the latest incurred contract costs for the given project component

Total – Total the cost amounts across all project components and contracts

¹ Appendix A summarizes all project components that will be bid in the next quarter, are currently under construction, or have completed construction. It should be a cumulative list of projects that is updated each quarter. A Microsoft Excel spreadsheet with similar table format is acceptable.

² Include the appropriate option and delete the other option prior to circulating a draft to the Borrower.

EXHIBIT G

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

VIA EMAIL

United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
WJC-E 7334A
Washington, DC 20460
Attn: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Project: Aquifer Storage Recovery (ASR) Project (WIFIA ID – N20107CA)

Dear Director:

This Notice is provided pursuant to Part E of Schedule V (*Reporting Requirements*) of that certain WIFIA Loan Agreement (the “**WIFIA Loan Agreement**”), dated as of *[date]*, by and between THE CITY OF OXNARD FINANCE AUTHORITY (the “**Borrower**”), THE CITY OF OXNARD (the “**City**”), and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through its Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this certificate have the meanings assigned to those terms in the WIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the WIFIA Lender that:

- (a) the Project has satisfied each of the requirements for Substantial Completion set forth in the Construction Contracts;
- (b) Substantial Completion has been declared under each of the relevant Construction Contracts and copies of the notices of Substantial Completion under such agreements are attached to this certification;
- (c) Substantial Completion, as defined in the WIFIA Loan Agreement, has been achieved and the Substantial Completion Date is ; and
- (d) The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

**THE CITY OF OXNARD FINANCE
AUTHORITY,**
by its authorized representative

Exhibit G-1

By: _____
Name:
Title:

EXHIBIT H-1

OPINIONS REQUIRED FROM GENERAL COUNSEL TO THE BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that:

(a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization;

(b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the WIFIA Loan Documents to which it is a party;

(c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the WIFIA Loan Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action, and other than the Borrower's Organizational Documents, Resolution No. [] of the Board of Directors of the City of Oxnard Financing Authority adopted on [], 2022, and the Indenture Documents, no further instruments or documents are necessary for the Borrower to execute and deliver, and to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents;

(d) the Borrower has duly executed and delivered each WIFIA Loan Document to which it is a party and each such WIFIA Loan Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any WIFIA Loan Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower;

(f) the execution and delivery by the Borrower of, and compliance with the provisions of, the WIFIA Loan Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject;

(g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended; and

(h) to the knowledge of such counsel after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other

Governmental Authority in connection with the Related Documents or the Water System (including the Project) that are pending.

EXHIBIT H-2

OPINIONS REQUIRED FROM BOND COUNSEL TO THE BORROWER

An opinion of bond counsel, dated as of the Effective Date, to the effect that:

(a) The Borrower has been duly created and validly exists as a joint exercise of powers agency of the State under and pursuant to the laws of the State (including the [*Borrower enabling legislation*] as amended to the date hereof) (the “**Borrower Act**”), with good right and power to issue the WIFIA Bond.

(b) The Borrower has the right and power under the laws of the State, including the Borrower Act, to enter into the Indenture Documents, the WIFIA Loan Documents and the WIFIA Bond, and each has been duly authorized, executed and delivered by the Borrower, is in full force and effect, and constitutes a legal, valid and binding agreement of the Borrower enforceable against the Borrower in accordance with its respective terms and conditions.

(c) the WIFIA Bond (i) is secured by the Pledged Collateral, (ii) is a Bond (as defined in the Indenture) entitled to the benefits of a Bond -under the Indenture, and (iii) is enforceable under the laws of the State without any further action by the Borrower or any other Person;

(d) the Indenture creates the valid and binding assignment and pledge of the Pledged Collateral to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act;

(e) all actions by the Borrower that are required for the application of Revenues as required under the Indenture and under the WIFIA Loan Agreement have been duly and lawfully made;

(f) the Borrower has complied with the requirements of State law to lawfully pledge the Pledged Collateral and use the Revenues as required by the terms of the Indenture and the WIFIA Loan Agreement;

EXHIBIT H-3

OPINIONS REQUIRED FROM GENERAL COUNSEL TO THE CITY

An opinion of the counsel of the City, dated as of the Effective Date, to the effect that:

(a) the City is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization;

(b) the City has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the WIFIA Loan Documents to which it is a party;

(c) the execution and delivery by the City of, and the performance of its respective obligations under, the WIFIA Loan Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action, and other than the City's Organizational Documents, Resolution No. [] of the City Council of the City of Oxnard adopted on [], 2022, and the Indenture Documents, no further instruments or documents are necessary for the City to execute and deliver, and to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents;

(d) the City has duly executed and delivered each WIFIA Loan Document to which it is a party and each such WIFIA Loan Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the City for the execution and delivery by such party of, and the performance of such party under, any WIFIA Loan Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the City;

(f) the execution and delivery by the City of, and compliance with the provisions of, the WIFIA Loan Documents to which it is a party in each case do not (i) violate the Organizational Documents of the City, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the City is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the City is subject;

(g) the City is not an investment company required to register under the Investment Company Act of 1940, as amended; and

(h) to the knowledge of such counsel after due inquiry, there are no actions, suits, proceedings or investigations against the City by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Water System (including the Project) that are pending.

EXHIBIT H-4

OPINIONS REQUIRED FROM BOND COUNSEL TO THE CITY

An opinion of bond counsel, dated as of the Effective Date, to the effect that:

(a) The City has been duly created and validly exists as a municipal corporation under and pursuant to the laws of the State , with good right and power to enter into the WIFIA Loan and the Indenture Documents.

(b) The City has the right and power under the laws of the State to enter into the Indenture Documents and the WIFIA Loan Documents, and each has been duly authorized, executed and delivered by the City, is in full force and effect, and constitutes a legal, valid and binding agreement of the City enforceable against the City in accordance with its respective terms and conditions.

(c) the Installment Purchase Agreement ranks *pari passu* in right of payment and right of security with all Senior Obligations and are senior in right of payment and right of security to all Subordinated Obligations;

(e) all actions by the City that are required for the application of Net Water System Revenues as required under the Installment Purchase Agreement and under the WIFIA Loan Agreement have been duly and lawfully made;

(f) the City has complied with the requirements of State law to lawfully pledge the Pledged Collateral and use the Net Water System Revenues as required by the terms of the Installment Purchase Agreement and the WIFIA Loan Agreement;

EXHIBIT I

FORM OF CERTIFICATE OF TRUSTEE

THE CITY OF OXNARD FINANCE AUTHORITY

**With respect to the WIFIA Bond,
Aquifer Storage Recovery Project
(WIFIA ID – N20107CA)**

The undersigned, [] (the “**Trustee**”), by its duly appointed, qualified and authorized representative below, certifies with respect to the above referenced bond (the “**WIFIA Bond**”) dated as of [], 2022, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America.

2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the WIFIA Bond have been obtained by the Trustee and are in full force and effect.

3. That the documents pertaining to the issuance of the WIFIA Bond to which the Trustee is a party were executed by the Trustee and the WIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the WIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the WIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.

4. That the undersigned has the power and authority to act as Trustee and accept the trusts conveyed to it under the Indenture (“**Trusts**”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is not in violation of any provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.

5. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section [] of that certain Indenture (the “**Indenture**”), dated as of [], 2022, between the City of Oxnard Finance Authority (the “**Borrower**”), the City of Oxnard (the “**City**”), and the Trustee.

7. That receipt is also acknowledged of that certain WIFIA Loan Agreement, dated as of [], 2022 (the “**WIFIA Loan Agreement**”), between the Borrower, the City, and the United States Environmental Protection Agency, acting by and through the Administrator.

8. That the Trustee accepts its appointment and agrees to perform the duties and responsibilities of Trustee for and in respect of the WIFIA Bond as set forth in the Indenture and the WIFIA Loan Agreement, including from time to time redeeming all or a portion of the WIFIA Bond as provided in Section [] of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Section [] of the Indenture.

9. That all funds and accounts for the payment of the WIFIA Bond pursuant to the Indenture [(including, but not limited to, the WIFIA Debt Service Account[and the WIFIA Debt Service Reserve Account])] have been established as provided in the Indenture.

Dated: [], 20[]

[TRUSTEE]

By: _____
Name:
Title:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

[____], 2022

The City of Oxnard
300 West Third Street
Oxnard, CA 93030

City of Oxnard Finance Authority
300 West Third Street
Oxnard, CA 93030

RE: WIFIA Term Sheet for the City of Oxnard
Aquifer Storage Recovery (ASR) Project
WIFIA Project No. 20107CA

Ladies and Gentlemen:

This WIFIA Term Sheet (this “**Term Sheet**”) constitutes (a) the approval of the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (hereinafter, the “**USEPA**”), of the application for credit assistance of the City (as defined below) received September 27, 2021 (the “**Application**”) and (b) the agreement of USEPA to provide financing for the above-referenced project (as further described below, the “**Project**”) in the form of a secured loan (the “**WIFIA Loan**”), pursuant to the Water Infrastructure Finance and Innovation Act (“**WIFIA**”), § 5021 *et seq.* of Public Law 113-121 (as amended, and as may be further amended from time to time, the “**Act**”), codified as 33 U.S.C. §§ 3901-3914, subject in all respects to (i) the terms and conditions contained herein and (ii) the execution and delivery of the WIFIA loan agreement among USEPA, the City and the Authority (as defined below) to be entered into on or after the date hereof (the “**WIFIA Loan Agreement**”) on the terms and conditions acceptable to the USEPA contained therein. The financing shall be documented under the following four documents: (1) the WIFIA Loan Agreement; (2) a 2022 Installment Purchase Agreement, between the City and the Authority (the “**2022 Installment Purchase Agreement**”); (3) a 2022 Indenture of Trust (the “**2022 Indenture**”) between the Authority, the City and Computershare Trust Company, N.A. (the “**Trustee**”); and (4) a bond to be issued by the Authority pursuant to the 2022 Indenture and the WIFIA Loan Agreement (the “**WIFIA Bond**” and together with the 2022 Installment Purchase Agreement, the 2022 Indenture, the WIFIA Loan Agreement, and certain other documents referenced in the definition thereof in the WIFIA Loan Agreement, the “**WIFIA Loan Documents**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the WIFIA Loan Agreement or the 2022 Indenture.

By executing this Term Sheet, the City confirms its agreement to reimburse USEPA for any and all fees and expenses that USEPA incurs for legal counsel, financial advice, and other consultants in connection with the evaluation of the Project and the negotiation and preparation

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of the WIFIA Loan Agreement and related documents, whether or not such agreement is ultimately executed.

This Term Sheet shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable, and the internal laws of the State of California, if and to the extent such federal laws are not applicable. This Term Sheet, and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Electronic delivery of an executed counterpart of a signature page shall be effective as delivery of an original executed counterpart.

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INDICATIVE TERMS OF THE WIFIA LOAN

WIFIA LENDER	United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “ WIFIA Lender ”).
BORROWER	The City of Oxnard, a municipal corporation duly organized and existing under the laws of the State of California (the “ City ”) and the City of Oxnard Finance Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “ Authority ”).
PROJECT	The Aquifer Storage Recovery (ASR) Project consists of the following components: (i) expansion of the City’s Advanced Water Purification Facility capacity, (ii) construction of additional aquifer storage wells, (iii) construction of a distribution pipeline to convey recovered groundwater from the ASR wells to three existing Blending Stations, and (iv) upgrades to two of the city’s Blending Stations including mechanical and electrical upgrades as well as piping modifications and pump replacements (the “ Project ”).
WIFIA LOAN AMOUNT	A maximum principal amount (sum of disbursements and excluding capitalized interest) not to exceed \$48,265,202; <u>provided</u> that (a) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act, shall not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs, and (b) the total federal assistance for the Project, including but not limited to the maximum principal amount of the WIFIA Loan and all federal grants, shall not exceed eighty percent (80%) of Total Project Costs.
INTEREST RATE	The WIFIA Loan shall bear interest at a fixed rate, calculated by adding one basis point (0.01%) to the rate of securities of a similar maturity (based on the weighted-average life of the WIFIA Loan) as published, on the execution date of the WIFIA Loan Agreement, in the United States Treasury Bureau of Public Debt’s daily rate table for State and Local Government Series (SLGS) securities. The WIFIA Loan shall also bear default interest at a rate of five hundred (500) basis points above the otherwise applicable interest rate, at such times and upon such terms as provided in the WIFIA Loan Agreement.
PAYMENT DATES	Principal and interest on the WIFIA Loan shall be repaid in accordance with the terms set forth in the WIFIA Loan Agreement, which will reflect annual installments of principal

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	payable on June 1 of each year, beginning on June 1, 2041, and semiannual payments of interest in arrears on June 1 and December 1 of each year, beginning on December 1, 2027. The debt service payment commencement date of the WIFIA Loan shall in no event be later than five (5) years after the date on which the WIFIA Loan amounts are first disbursed (but in any event no later than five (5) years after the Substantial Completion Date of the Project).
FINAL MATURITY DATE	The earliest of (a) July 1, 2062; (b) the date on which the maturity of the WIFIA Loan has been accelerated or subject to mandatory redemption or prepayment (as the case may be); and (c) the Principal Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.
DEDICATED SOURCE OF REPAYMENT	The dedicated source of repayment for the WIFIA Loan shall be the Net Water System Revenues, payable to the Authority through the Installment Payments received by the Authority pursuant to or with respect to the Installment Purchase Agreement, and all interest or gain derived from the investment of amounts in the funds or accounts established under the Installment Purchase Agreement (the “Authority Revenue”). The Installment Payments shall be payable to the WIFIA Lender as assignee of the Authority, from, and secured by, the Net Water System Revenues of the Water System in accordance with the Installment Purchase Agreement. The provisions below summarize the Installment Purchase Agreement. “Net Water System Revenues” means (i) for any Borrower Fiscal Year, the Water System Revenues for such Borrower Fiscal Year less the Maintenance and Operation Costs for such Borrower Fiscal Year, or (ii) in applying the provision of the Installment Purchase Agreement with respect to Additional Obligations only, the Water System Revenues for the selected 12-month period less the Maintenance and Operation Costs for the same 12-month period. “Water System Revenues” means all income, rents, rates, fees, charges, and other moneys derived from the ownership of or operation of the Water System, including, without limiting the generality of the foregoing: (a) all in lieu charges and groundwater augmentation charges (including investment earnings thereon) collected by or on behalf of the City, (b) all income, rents, rates, fees, charges, business interruption

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	insurance proceeds, or other moneys derived by the City from the sale, furnishing, and supplying of the water, drainage or other services, facilities, and commodities sold, furnished, or supplied through the facilities of or in the conduct or operation of the business of the Water System, and (c) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, proceeds, or other moneys, including City reserves; but excluding in all cases: (i) customers' deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City, (ii) proceeds of taxes or benefit assessments restricted by law to be used by the City to pay amounts due on bonds or other obligations hereafter incurred, and (iii) connection fees and charges. "Maintenance and Operation Costs" means: (i) costs spent or incurred for maintenance and operation of the Water System calculated in accordance with generally accepted accounting principles applicable to governmental agencies, including, but not limited to, the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City that are charged directly or apportioned to the Water System, including, but not limited, to salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges (other than debt service payments) required to be paid by it to comply with the terms of the City Bonds, or any Contract, other than Debt Service, or of any resolution or indenture authorizing the issuance of any City Bonds or Contracts, and (ii) all payments under any contract for the purchase of water; but excluding in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar nature. "Water System" means the whole and each and every part of the waterworks system serving the City, whether owned or operated by the City or another party, including the portion thereof existing
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	on the effective date of the WIFIA Loan Agreement, and including all additions, betterments, extensions, and improvements to such water system or any part thereof acquired or constructed after the effective date of the WIFIA Loan Agreement. “City Bonds” means all revenue bonds or notes of the City authorized, executed, issued, and delivered under and pursuant to the laws of the State of California, the payments of which are made from the Net Water System Revenues and which are on a parity with the Installment Payments. The term “City Bonds” includes, but is not limited to, obligations in the form of bonds, notes, bond anticipation notes, and commercial paper. “Contracts” means the 2022 Installment Purchase Agreement and all contracts or leases of the City authorized and executed by the City under and pursuant to the laws of the State of California, installment or lease payments under which are payable from the Net Water System Revenues on a parity with the 2022 Installment Purchase Agreement.
INSTALLMENT PAYMENTS; SECURITY AND LIEN PRIORITY	<i>Installment Payments</i> Under the WIFIA Loan Documents, the City will acquire the Project from the Authority, in exchange for installment payments paid by the City to the Authority (“Series 2022 Installment Payments”), which will be equal in time and amount to the debt service on the WIFIA Loan (and, without duplication, the WIFIA Bond). Each Series 2022 Installment Payment includes an Interest Component and, on each Principal Payment Date, a Principal Component, which mimics a debt service structure under a traditional loan agreement. <i>Security and Lien Priority</i> Payment of the Series 2022 Installment Payments by the City to the Authority shall be secured by a first priority lien on the Net Water System Revenues. All Water System Revenues received by the City shall be deposited in a separately maintained fund established and held by the City with respect to the Water System Revenues (the “Revenue Fund”) from which the City will pay all Maintenance and Operation Costs as they become due and payable, and the remaining money on deposit, which shall constitute the Net Water System Revenues, will be used to make deposits with the Trustee in such amounts as required to pay the Series 2022 Installment Payments and debt service in accordance with the provisions of any Bond or Contract, which are <i>pari passu</i>

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	with the Series 2022 Installment Payments. Payment of the WIFIA Bond (and the WIFIA Loan) by the Authority shall be secured by a first priority lien on, and security interest in, (i) all amounts held in the fund to be established and held by the Trustee under the 2022 Indenture (the “Bond Payment Fund”) (including the funds and accounts therein), (ii) all amounts held in the reserve fund to be established and held by the Trustee under the 2022 Indenture (the “Reserve Fund”) (including the funds and accounts therein), (iii) the Authority Revenues received by the Authority or the Trustee under the 2022 Installment Purchase Agreement and (iv) all money on deposit from time to time in the accounts and funds established under the 2022 Indenture. Additionally, pursuant to the 2022 Indenture, the Authority will assign to the Trustee, on behalf of the WIFIA Lender (as holder of the WIFIA Bond) and the other holders of bonds issued pursuant to the 2022 Indenture, as additional security for the Authority’s obligations thereunder, all of the Authority’s rights, title and interest to and in (A) (i) the Series 2022 Installment Payments, prepayments, insurance proceeds, condemnation proceeds and all other amounts received pursuant to the 2022 Installment Purchase Agreement (excluding any Additional Payments), (ii) all money and amounts held in the funds established under the 2022 Indenture, and (iii) investment income with respect to any moneys held by the Trustee under the 2022 Indenture, and (B) all of the right, title and interest (but none of the obligations) of the Authority in the 2022 Installment Purchase Agreement (other than the rights of the Authority under Sections 8.03 and 11.14 thereof and the Authority’s rights to give consents and approvals thereunder, including, without limitation, to amendments thereof).
FLOW OF FUNDS	As set forth in further detail in the WIFIA Loan Agreement, the 2022 Installment Purchase Agreement and the 2022 Indenture, the City shall deposit all Water System Revenues, when and as received, in the Revenue Fund. The Water System Revenues in the Revenue Fund shall be applied: (i) <i>first</i>, to pay all Maintenance and Operations Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation costs, the payment of which is not then immediately required) as they become due and payable; (ii) <i>second</i>, on or before each date on which a Series 2022 Installment Payment is due, to fund the Bond Payment Fund

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	in an amount equal to the Series 2022 Installment Payment due and payable on such date (such amount shall be reduced to the extent amounts on deposit therein are available for application to the Series 2022 Installment Payment due and payable on such date) (the City shall also, from the moneys in the Revenue Fund, transfer to the trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, to pay any other debt service in accordance with the provision of any Bond or Contract); and (iii) <i>third</i>, on or before each date on which a Series 2022 Installment Payment is due, to fund, without preference or priority, and in the event of any insufficiency of such money ratably without any discrimination or preference, the Reserve Fund and such other reserve funds and/or accounts, if any, as may have been established in connection with Bonds or Contracts, other than the 2022 Installment Purchase Agreement, that sum, if any, necessary to restore the Reserve Fund to an amount equal to the Reserve Requirement and/or such reserve funds or accounts to an amount equal to the amount required to be maintained therein.
RATE COVENANT	As set forth in further detail in the WIFIA Loan Agreement, the City shall, subject to the remainder of this paragraph, fix, charge and collect rates, fees and charges for the Water System during each Borrower Fiscal Year, which will be at least sufficient to yield, during each Borrower Fiscal Year, Net Water System Revenues equal to the sum of at least: (i) one hundred ten percent (110%) of the Debt Service payable during such Borrower Fiscal Year with respect to all outstanding Obligations, and the amounts, if any, then due and owing to the Insurer under the Reserve Policy, if applicable; and (ii) the amount by which the amount on deposit in the Water System Revenue Fund on the last day of the immediately preceding Borrower Fiscal Year was less than twenty five percent (25%) of Maximum Annual Debt Service as of such day.
ADDITIONAL INDEBTEDNESS	<i>The City</i> As set forth in further detail in the WIFIA Loan Agreement, the City shall not execute any Contract or issue any City Bonds, as the case may be, unless the conditions described below and in Section

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	19(a) and Schedule I, Part D of the WIFIA Loan Agreement are satisfied: (a) the City shall not issue or incur any Additional Obligations during the term of the WIFIA Loan Agreement having any priority in payment of principal or interest out of the Water System Revenues or the Net Water System Revenues senior to the 2022 Installment Payments; and (b) the City may not issue or incur any Additional Obligations during the term of the WIFIA Loan Agreement unless all of the following conditions are satisfied: (i) No Event of Default has occurred and is continuing. (ii) The City obtains or provides a certificate or certificates prepared by an Independent Financial Consultant showing that: a. the Net Water System Revenues as shown by the books of the City for the twelve (12) calendar months ending 90 days prior to the end of the month in which such Additional Obligations are incurred (the “Look Back Period”), will have amounted to at least the sum of (x) one hundred ten percent (110%) of Debt Service for such Look Back Period, plus (y) the amount by which the amount on deposit in the Revenue Fund on the first day of such Look Back Period was less than twenty-five percent (25%) of Maximum Annual Debt Service on all Outstanding City Bonds and Contracts calculated on the first day of such Look Back Period; for purposes of preparing the certificate or certificates described above, the Consultant or Consultants may rely upon financial statements prepared by the City for all or any part of the Look Back Period, which have not been subject to audit by an Independent Certified Public Accountant if audited financial statements for the Borrower Fiscal Year or period are not available; b. the estimated Net Water System Revenues for the twelve (12) calendar months following the date of incurring such Additional Obligations will be at least equal to one hundred ten percent (110%) of Maximum Annual Debt Service on all City Bonds
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	and Contracts to be outstanding immediately after the incurring of such Additional Obligations; and c. the amount on deposit in the Water Revenue Fund on the date of incurring such Additional Obligations is at least equal to twenty-five percent (25%) of Maximum Annual Debt Service on all Outstanding City Bonds and Contracts as of the date of incurring of such Additional Obligations. If the Additional Obligations are being issued solely to refund outstanding Obligations, and the resulting Maximum Annual Debt Service on all Outstanding City Bonds and Contracts after incurring such Additional Obligations will not exceed the Maximum Annual Debt Service on all Obligations outstanding prior to incurring such Additional Obligations, the City need not comply with the provisions of paragraph (ii) above. (c) The City shall not issue or incur any Obligations for the Project that are secured by a Lien on any assets or property of the City other than the Net Water System Revenues. <i>The Authority</i> The Authority shall not without the prior written consent of the WIFIA Lender issue or incur obligations of any kind payable from, secured or supported by any of the Series 2022 Installment Payments and amounts to be held in any fund or account established under the 2022 Indenture or the right, title and interest of the Authority in the 2022 Installment Purchase Agreement, to be assigned by the Authority to the Trustee under the 2022 Indenture.
OTHER	<u>Project Substantial Completion Date</u>: July 1, 2027. <u>Capitalized Interest Period</u>: Subject to the terms and conditions of the WIFIA Loan Agreement, no principal or interest shall be paid during the capitalized interest period and interest payments will be capitalized through December 1, 2027.
RESTRICTED PAYMENTS AND TRANSFERS	The City shall not permit Water System Revenues or other assets of the Water System, or any funds in any accounts held under the 2022 Installment Purchase Agreement or any ancillary agreement related thereto, or in any other fund or account held by or on behalf of the City for the benefit of the Water System, to be paid or transferred or otherwise applied for purposes other than

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	ownership, construction and improvement, operation or maintenance of the Water System or as otherwise permitted in the WIFIA Loan Agreement; <u>provided</u> that the City may transfer excess Water System Revenues from the Revenue Fund to the general fund of the City for the sole purpose of reimbursing to the City's general fund amounts previously expended out of the City's general fund to pay for costs directly related to the ownership, construction and improvement, operation or maintenance of the Water System.
WIFIA LOAN DOCUMENTATION	The WIFIA Loan shall be subject to the preparation, execution and delivery of the WIFIA Loan Documents and any other loan documentation required by the WIFIA Lender in connection therewith, in each case acceptable to the WIFIA Lender, the Authority and the City, which will contain certain conditions precedent, representations and warranties, affirmative and negative covenants, events of default, and other provisions as agreed between the WIFIA Lender, the Authority and the City.

[Signature pages follow]

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If the foregoing terms are acceptable, please countersign this letter in the space indicated below.

Sincerely,

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and
through the Administrator of the United States
Environmental Protection Agency

By: _____
Name: Michael S. Regan
Title: Administrator

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*[Signature Page to the City of Oxnard and the City of Oxnard Finance Authority - Aquifer Storage Recovery (ASR)
Project – WIFIA Term Sheet]*

ACKNOWLEDGED AND AGREED:

THE CITY OF OXNARD,
by its authorized representative

By: _____
Name:
Title:

CITY OF OXNARD FINANCE AUTHORITY,
by its authorized representative

By: _____
Name:
Title:

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*[Signature Page to the City of Oxnard and the City of Oxnard Finance Authority - Aquifer Storage Recovery (ASR)
Project – WIFIA Term Sheet]*

City of Oxnard Financing Authority
Estimated/Projected 2022 WIFIA Loan Amortization
Aquifer Storage Recovery (ASR) Project Funding (49% of Project Cost Total)
3/23/2022 30-Year Treasury Rate + 0.4% Buffer

Period				Pre Completion	Net Debt	Annual	DS + Servicing	Total Fiscal
Ending	Principal	Coupon	Gross Interest	Interest (Increases Loan Amount)	Service	Servicing Fees	Fees	Year DS + Servicing
6/1/2022	-		-		-		-	-
6/1/2023	-		166,874	(166,874)	-	21,300	21,300	21,300
6/1/2024	-		226,249	(226,249)	-	10,650	10,650	10,650
6/1/2025	-		352,244	(352,244)	-	10,650	10,650	10,650
6/1/2026	-		880,646	(880,646)	-	10,650	10,650	10,650
6/1/2027	-		1,405,630	(1,405,630)	-	10,650	10,650	10,650
6/1/2028	-	3.000%	1,546,119	-	1,546,119	8,000	1,554,119	1,554,119
6/1/2029	-	3.000%	1,546,119	-	1,546,119	8,240	1,554,359	1,554,359
6/1/2030	-	3.000%	1,546,119	-	1,546,119	8,487	1,554,607	1,554,607
6/1/2031	-	3.000%	1,546,119	-	1,546,119	8,742	1,554,861	1,554,861
6/1/2032	-	3.000%	1,546,119	-	1,546,119	9,004	1,555,124	1,555,124
6/1/2033	-	3.000%	1,546,119	-	1,546,119	9,274	1,555,394	1,555,394
6/1/2034	-	3.000%	1,546,119	-	1,546,119	9,552	1,555,672	1,555,672
6/1/2035	-	3.000%	1,546,119	-	1,546,119	9,839	1,555,958	1,555,958
6/1/2036	-	3.000%	1,546,119	-	1,546,119	10,134	1,556,254	1,556,254
6/1/2037	-	3.000%	1,546,119	-	1,546,119	10,438	1,556,558	1,556,558
6/1/2038	-	3.000%	1,546,119	-	1,546,119	10,751	1,556,871	1,556,871
6/1/2039	-	3.000%	1,546,119	-	1,546,119	11,074	1,557,193	1,557,193
6/1/2040	-	3.000%	1,546,119	-	1,546,119	11,406	1,557,526	1,557,526
6/1/2041	1,797,198	3.000%	1,546,119	-	3,343,317	11,748	3,355,066	3,355,066
6/1/2042	1,851,114	3.000%	1,492,204	-	3,343,317	12,101	3,355,418	3,355,418
6/1/2043	1,906,647	3.000%	1,436,670	-	3,343,317	12,464	3,355,781	3,355,781
6/1/2044	1,963,847	3.000%	1,379,471	-	3,343,317	12,838	3,356,155	3,356,155
6/1/2045	2,022,762	3.000%	1,320,555	-	3,343,317	13,223	3,356,540	3,356,540
6/1/2046	2,083,445	3.000%	1,259,872	-	3,343,317	13,619	3,356,937	3,356,937
6/1/2047	2,145,948	3.000%	1,197,369	-	3,343,317	14,028	3,357,345	3,357,345
6/1/2048	2,210,327	3.000%	1,132,991	-	3,343,317	14,449	3,357,766	3,357,766
6/1/2049	2,276,636	3.000%	1,066,681	-	3,343,317	14,882	3,358,200	3,358,200
6/1/2050	2,344,935	3.000%	998,382	-	3,343,317	15,329	3,358,646	3,358,646
6/1/2051	2,415,283	3.000%	928,034	-	3,343,317	15,789	3,359,106	3,359,106
6/1/2052	2,487,742	3.000%	855,575	-	3,343,317	16,262	3,359,580	3,359,580
6/1/2053	2,562,374	3.000%	780,943	-	3,343,317	16,750	3,360,067	3,360,067
6/1/2054	2,639,246	3.000%	704,072	-	3,343,317	17,253	3,360,570	3,360,570
6/1/2055	2,718,423	3.000%	624,894	-	3,343,317	17,770	3,361,088	3,361,088
6/1/2056	2,799,976	3.000%	543,342	-	3,343,317	18,303	3,361,621	3,361,621
6/1/2057	2,883,975	3.000%	459,342	-	3,343,317	18,853	3,362,170	3,362,170
6/1/2058	2,970,494	3.000%	372,823	-	3,343,317	19,418	3,362,735	3,362,735
6/1/2059	3,059,609	3.000%	283,708	-	3,343,317	20,001	3,363,318	3,363,318
6/1/2060	3,151,397	3.000%	191,920	-	3,343,317	20,601	3,363,918	3,363,918
6/1/2061	3,245,939	3.000%	97,378	-	3,343,317	21,219	3,364,536	3,364,536
6/1/2062	-		-	-	-		-	-
	51,537,316*		41,803,542	(3,031,643)	90,309,215	525,741	90,834,956	90,834,956

*Total higher than original expected loan amount (\$48.5M) due to \$3M of pre-completion interest, which is capitalized into the loan after closing and between 12/1/2022 and 6/1/2027 to increase the outstanding principal.

City of Oxnard

WIFIA Financing for Water Infrastructure Improvements

PRESENTATION TO CITY COUNCIL

MAY 3, 2022

Recommendation

- ◆ That the City Council adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.
- ◆ That the Board of Directors of the City of Oxnard Financing Authority adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.

Background

- ◆ Water Infrastructure Finance and Innovation Act (“WIFIA”) program was authorized in 2014 to help local agencies finance needed water infrastructure projects
- ◆ City submitted a letter of interest in October 2020, was formally invited to apply
- ◆ City submitted formal application in September 2021
- ◆ From October 2021 to March 2022, City staff have been in frequent communication with EPA staff regarding the project engineering, City’s ability to repay, and the structure of the financing

Needed Water Infrastructure

- ◆ Aquifer Storage and Recovery (“ASR”) Project
- ◆ Increase Capacity of Advanced Water Purification Facility (“AWPF”) from 6.25 to 12.5 million gallons per day
- ◆ Mechanical and electrical upgrades to blending stations 1, 3, and 6

- ◆ \$85 million in total capital costs, including design, planning, construction and contingency

WIFIA Financing Benefits to the City

Extended maturity Terms

- 40-year final maturity for City's loan

Low, fixed interest rate based on US Treasuries

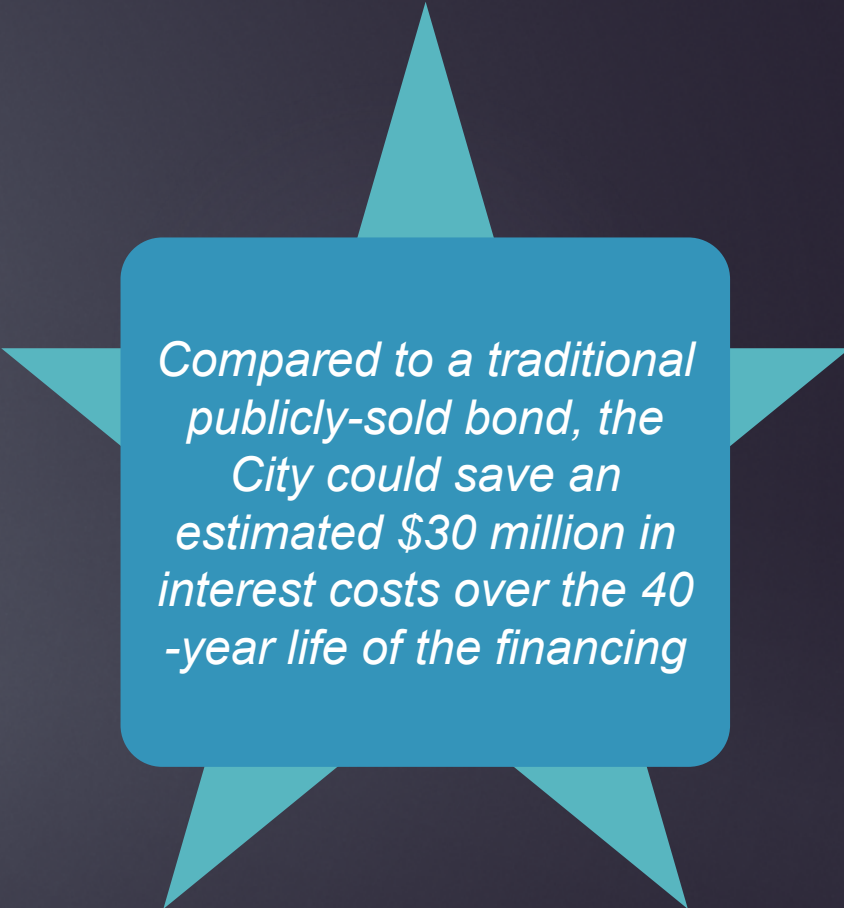
- Estimated 3.0% rate for 40-year debt

Flexible Structuring

- No principal repayment until 2041, "wrapped around" outstanding Water Fund debt

Beneficial prepayment terms

- City can prepay the loan in full on any date; prepay a portion of the loan on any interest payment date

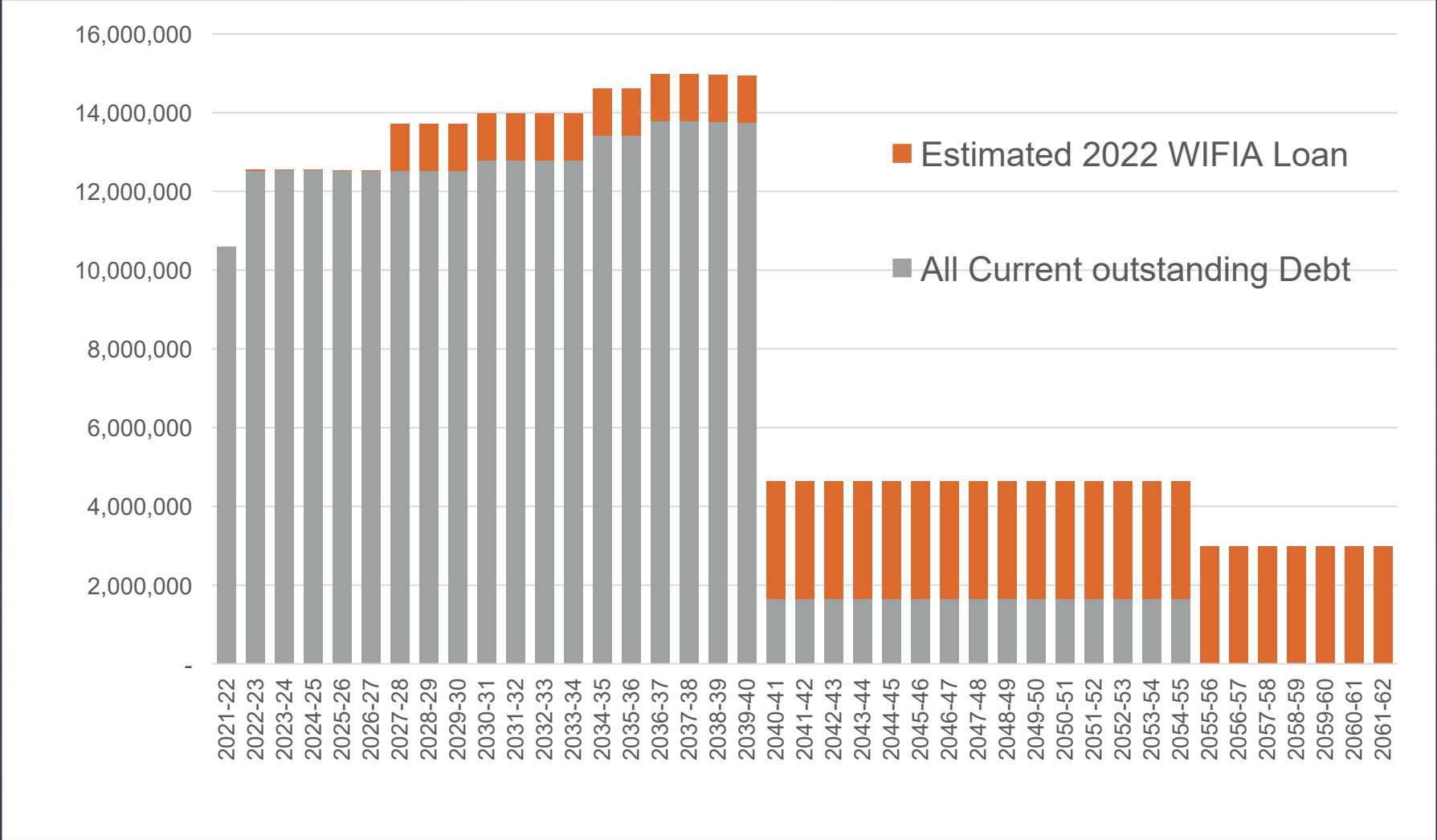


Compared to a traditional publicly-sold bond, the City could save an estimated \$30 million in interest costs over the 40-year life of the financing

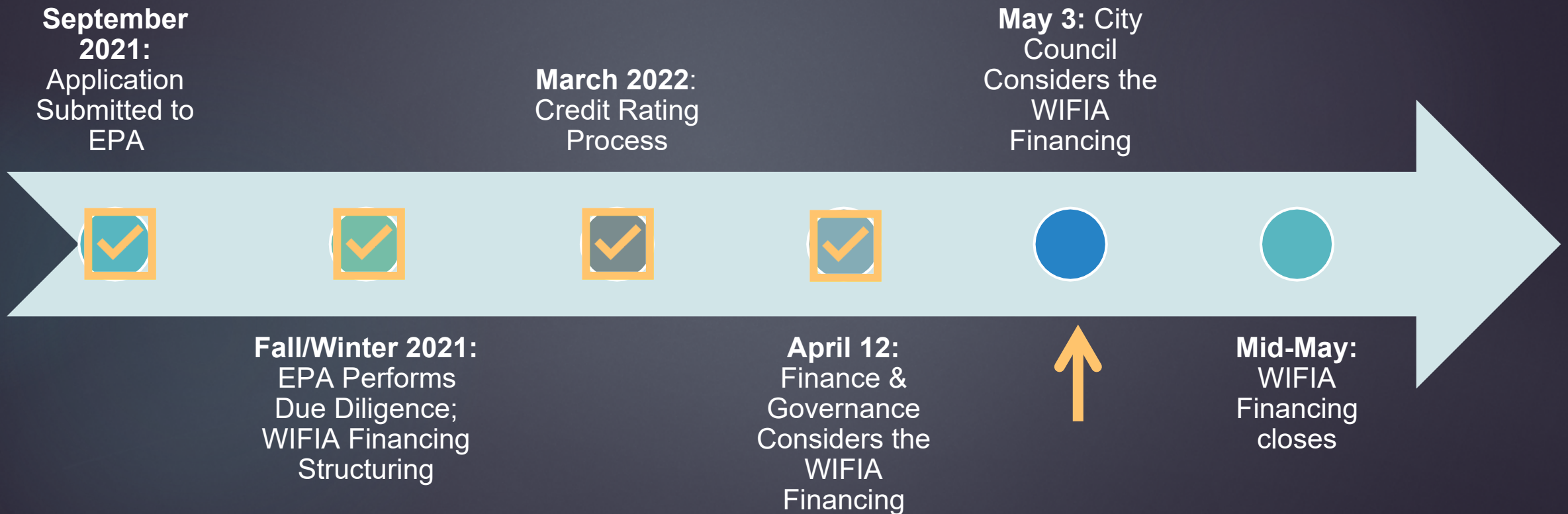
Notable WIFIA Financing Requirements

- ◆ 51% of eligible costs must come from City match
 - ❑ City expects to issue Bonds in 2023-24 to finance the 51% share
- ◆ Requires City to maintain net revenues at 110% of debt service due in each year
 - ❑ Existing Water Debt has 100% requirement
 - ❑ City's 2020-21 net revenues were 167% of debt service
 - ❑ Future Water Bonds will need this same 110% covenant in order to be considered parity debt
- ◆ In other respects, the WIFIA financing will be structured very similarly to other City Water Fund Debt

Estimated Water Fund Debt Service



Tentative Schedule



Recommendation

- ◆ That the City Council adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.
- ◆ That the Board of Directors of the City of Oxnard Financing Authority adopt a resolution approving an Installment Purchase Agreement, Indenture of Trust, a WIFIA Loan Agreement, and a WIFIA Loan Term Sheet with respect to the issuance by the City of Oxnard Financing Authority of bonds in an aggregate principal amount not to exceed \$55,000,000 and other matters pertaining thereto.

Questions?



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.3

DATE: May 3, 2022

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Fifth Amendment to Agreement A- 8094 with WKE, Inc. for Rice Avenue at Fifth Street/State Route 34 Grade Separation. (0/5/5)

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a Fifth Amendment with WKE, Inc. Agreement A-8094 in the amount of \$495,559.48, for a new not to exceed contract value of \$9,500,957.18 to complete the Plans, Specifications and Estimates for the Rice Avenue at Fifth Street/State Route 34 Grade Separation, Project 133101.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the Capital Improvement Program budget, which was previously approved by the City Council.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/tE_3cdm_nvs

BACKGROUND

The Rice Avenue at Fifth Street Grade Separation (Project) will construct a new six-lane bridge on Rice Avenue in order to grade separate the Fifth Street/State Route 34 intersection and railroad crossing. The new facility will be aligned approximately 250-feet east of the existing Rice Avenue between Sturgis Road and Wooley Road. The project will also include a connector road, two new traffic signals, traffic signal improvements at Sturgis Road, Class II on-street bicycle lanes, sidewalks, and American with Disability Act (ADA) improvements. The California Public Utilities Commission prioritizes this project on the Grade Separation Priority List as it will enhance safety by eliminating conflicts among vehicles, pedestrians, bicyclists and trains at the Union Pacific Railroad crossing, as well as relieve congestion, reduce emissions and facilitate commerce by improving access to the Port of Hueneme.

CIP Reference:

Project No. (133101) - Rice Avenue & Fifth Street Railroad Grade Separation - CIP 2021-2026 - Adopted May 18, 2021 – Page 118.

DISCUSSION

WKE, Inc. Amendment No. 5

City Council approved Agreement A-8094 and four Amendments with WKE, Inc. to provide Plans, Specifications and Estimates (PS&E) for the project.

- Approved Agreement – July 24, 2018 – \$5,362,125.51
- Approved First Amendment – June 4, 2019 – \$490,074.77
- Approved Second Amendment – April 21, 2020 – \$3,056,880.66

- Approved Third Amendment – July 5, 2021 — \$96,316.76
- Approved Fourth Amendment – November 15, 2021 – time extension only
- Proposed Fifth Amendment – proposed May 3, 2022 – \$495,559.48
- Total proposed contract: \$9,500,957.18

A detailed scope of work for the Fifth Amendment is described in Exhibit A-4 of the amendment agreement. Below is a brief description of the additional work.

PS&E Phase

PS&E is substantially complete. The 100% draft documents were submitted to the Project Development Team (PDT) in November 2021. The PDT includes County of Ventura, the Federal Railroad Administration, and multiple functional units of Caltrans (Structures, Traffic, Construction, Maintenance, etc.). Since that time additional work, which goes beyond the original scope of the agreement has been identified. This work includes engineering for oil well abandonment, dewatering, pile driving, and assistance developing the City's construction bid package.

WKE, Inc. will prepare detailed drawings and specifications for two oil well abandonments that will be included in the construction contract. This includes securing the well abandonment permits from the Geologic Energy Management Division (CalGEM), and coordination with CalGEM, current well owner Shell Oil SWEPI LP, Caltrans, City and County to process the necessary permits and approvals to perform work on the oil wells.

WKE, Inc. will also perform a calculation of the volume of groundwater expected to be encountered during construction to determine if it can be discharged directly into the existing sewer system without prior treatment. The projected volume of groundwater is required for the City's Wastewater Division to make this determination. This work was not included in the original contract, however it has the potential for cost savings during construction as it would eliminate the need for a National Pollutant Discharge Elimination System (NPDES) permit and the related costs to treat groundwater to the NPDES water quality standards prior to discharging into the existing drainage facilities. The analysis will be completed by reviewing geotechnical and geologic data, evaluating a preliminary rate of groundwater discharge, and present findings and recommendations in a memorandum signed by a registered Geotechnical Engineer in the State of California, and coordinate with Chief, Office of Geotechnical Design South for all necessary reviews and approvals.

In response to a Caltrans inquiry, WKE, Inc. will perform a pile drivability study regarding the method proposed in the design plans. This study was not part of the original contract, but is necessary to document the proposed engineering and enable Caltrans Structures Staff to evaluate the plans. This is necessary since Caltrans will be the owner of the bridge structure. The analysis will incorporate data provided from Caltrans for the hammer/driving system used to drive piles for the Rice Avenue-Highway 101 Overcrossing, and/or will incorporate a presumptive hammer/driving system selected by the geotechnical consultant.

This amendment will also include WKE, Inc.'s assistance to staff who will prepare the City's bid package. Assistance goes beyond the scope of preparing the project's special provisions to include general provisions for UPRR coordination, general permit provisions, and federal and state grant funding provisions. This work was not included in the original agreement and will be performed as-needed on a time and material basis.

Right of Way and Utilities Phase

The right of way acquisition, led by Caltrans, is underway. This project will acquire 17 parcels (in both fee and temporary construction easements) from 10 separate property owners. To date, one owner is estimated to close escrow in April, six are in the negotiation phase, and three property owners are scheduled to receive offers by summer 2022.

Caltrans, who is contracted to perform acquisition, requested assistance from WKE, Inc. While this work was intended to be completed by Caltrans, due to their staffing shortages, Caltrans requested WKE, Inc. complete several tasks including: Survey for temporary construction easements not originally anticipated, revisions to appraisal maps to include a detention basin not originally anticipated, additional exhibits and documents for fee title to UPRR, assistance during negotiations for the UPRR construction agreement, preparation of exhibits and documentation for Resolution of Necessity requests to the California Transportation Commission (CTC), and engineering drawings for acquisition estimates and compensation

offers to property owners. Payment for this work will be diverted from what would have been paid to Caltrans Staff.

In addition, WKE, Inc. will collect right of way data to depict the condition of a generator facility recently installed by UWCD. This work was also not expected or included in the original contract.

Project Schedule

The proposed milestone schedule to begin construction is dependent upon any properties that may fall under condemnation. Condemnation requires a CTC vote for a Resolution of Necessity (for each parcel), and subsequent court proceedings.

1. August 2022 - CTC Vote for Resolution of Necessity (if negotiations fail)
2. October 2022 - Caltrans signature on the 100% Plans, Specifications, and Estimates.
3. March 2023 - Right of way certification by Caltrans. Certification must include proof of all property acquisitions, including court determinations for condemned parcels, and Utility Agreements.
4. June 2023 - Upon completion of 1-2, the City can request allocation of the construction funding from the CTC.
5. July 2023 - Upon completion of 1-3, the City can bid the project.
6. December 2023 - Construction contract award.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for this Amendment to Agreement A-8094 with WKE, Inc. is an additional \$495,559.48 for a total agreement value of \$9,500,957.18. There is sufficient budget appropriation, which is fully funded by the Trade Corridor Enhancement Program grant (State Grant Fund 189), in Project 133101, in the approved Fiscal Year 2021-22 budget.

COMMITTEE OUTCOME

(This item did not originate in Committee as this is a capital improvement project specifically listed in the Capital Improvement Program budget, which was previously approved by the City Council.)

Prepared by: Tatiana Arnaout, City Engineer

ATTACHMENTS

1. A-8094 5th Amendment
2. A-8094
3. Presentation

FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Fifth Amendment ("Fifth Amendment") to the Professional Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 3rd day of May, 2022 by and between the City of Oxnard, a municipal corporation ("City"), and WKE, Inc. ("Consultant"). This Fifth Amendment amends the Agreement entered into on July 24, 2018, by City and Consultant. The Agreement previously has been amended on June 4, 2019 by a First Amendment, on April 21, 2020 by a Second Amendment, on July 6, 2021 by a Third Amendment, and on November 16, 2021, by a Fourth Amendment.

City and Consultant agree as follows:

1. In Section 1 of the Agreement, Exhibits A, A-1, A-2, and A-3 are supplemented by Exhibit A-4, which is attached hereto and incorporated herein by reference.
2. In Section 8 of the Agreement, Exhibit B-1 is deleted and hereby replaced by Exhibit B-2.
3. In Section 14(a) of the Agreement, the figure "9,005,397.70," is deleted and hereby replaced by the figure, "9,500,957.18."
4. In Section 14(a) of the Agreement, Exhibits C, C-1, C-2, and C-3 are supplemented by Exhibit C-4, which is attached hereto and incorporated herein by reference.
5. The following Section 38 Iran Contracting Act Certification shall be added to the Agreement.

"In accordance with Public Contract Code Section 2200 et seq., the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.05 as applicable. The form of such Iran Contracting Certificate is included with this Agreement and must be signed and dated under penalty of perjury."
6. The following is attached hereto and incorporated herein by this reference into the Agreement: Iran Contracting Act Certification.
7. 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

WKE, Inc.

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

Wei Koo, President Date

Carlos Cadena, Senior Vice President Date

ATTEST:

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

APPROVED AS TO FORM:

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

1

EXHIBIT A-4

Scope of Services

TASK 1 – RIGHT-OF-WAY ENGINEERING SERVICES

Consultant will provide coordination and additional documentation and engineering drawings requested by Caltrans to facilitate the right-of-way acquisition estimates and compensation offers to property owners required to construct the project.

Subtask 1.1.1 Westridge Venture TCE Surveys

An appraisal map and legal description are required to connect the new sidewalk from the westerly side of Rice Avenue to the parking lot in the private property.

Subtask 1.1.2 UPRR Plats, Legal Descriptions, and Appraisal Maps

An appraisal map and legal description is required by the Caltrans Railroad Coordinator to perform street vacation. The additional exhibits and documents are required for the city to convey fee title to UPRR for the center 50' of Rice Avenue during the C&M negotiations and for Caltrans to execute the Construction Agreement with UPRR.

Subtask 1.1.3 Appraisal Maps and Legal Descriptions for Pegh TCE

An appraisal map and legal description are required to allow the contractor to backfill a detention basin along the southern limits of the property. Elimination of the depression will allow for the integrity of the property to be maintained and compensation for damages to be minimized.

Subtask 1.1.4 UWCD New Generator Survey

Consultant will provide Topographic Survey and plot Record Boundaries of a new generator facility recently installed by UWCD. Consultant will collect data for sufficient points to generate the Topographic Features, visible utilities, and other facilities to depict the existing condition of the property. The appraisal maps and legal descriptions will be updated to reflect the added equipment area.

Subtask 1.2.1 Additional Pegh Parcels Valuations

Consultant will prepare five additional larger parcels valuations for the Pegh property to separate the cost from the appraisal cost for the full property.

Subtask 1.2.2 Provide In-Person Property Inspection

Caltrans has requested Review Appraiser to include note stating, "review appraiser has personally inspected the property in the field" and certify comparable sales properties are mentioned in the Appraisal Report. A field visit is required to conform to Caltrans requirements.

Subtask 1.2.3 UPRR Appraisal Maps Independent Review Updates

Caltrans requires an independent appraisal review related to the appraisal map prepared under Subtask 1.1.2.

Subtask 1.3 Pegh and Hailwood Acquisition Coordination and Exhibits

Caltrans has required additional exhibits necessary for appraisers to estimate compensation values for Hailwood, UPRR, and Pegh. Consultant is required to coordinate with Caltrans ROW, appraisers and independent appraisers to develop documentation presented to Caltrans.

Subtask 1.4.1 Oil Wells Abandonment Plans and Specifications and Ownership Transfer

The County of Ventura received a rejection from the California Energy Management Division (CalGEM) on the county's request to abandon the Sturgis 1 oil well located within the Rice Avenue Grade Separation project limits. WKE will prepare detail drawings and specifications for the abandonment work to be included in the contract and will secure the well abandonment permit from CalGEM. Consultant will coordinate with Caltrans to transfer each well to the City of Oxnard and County of Ventura.

April 6, 2022

The following tasks will be completed:

- Prepare wellbore diagrams for Pfeiler 2 & Sturgis 1
- Prepare and submit transfer of ownership forms for same
- Prepare well programs for same
- Prepare and submit CalGEM permit requests for same
- Negotiations with CalGEM to finalize well plan
- Finalize well programs and bid third party work
- Engineering support for rig up and wellwork for same
- Prepare and submit final wellwork reports to CalGEM for same

Subtask 1.4.2 Oil Wells Abandonment and Ownership Transfer Coordination

This task also allows for coordination with Caltrans, CalGEM, City and County to process the necessary permits and approvals.

Subtask 1.5 Oil Pipeline Abandonment

Consultant will prepare specifications for the removal of existing abandoned of the 4" oil pipelines and develop removal plans. Specifications will include the removal of existing fluids in the pipelines, and the cleaning, handling, and disposal requirements including hazardous waste for fluids and pipe wrapping. Consultant will provide coordination, perform reviews, and address agencies comments.

Subtask 1.6.1 & 1.6.2 RIGHT-OF-WAY ACQUISITION SERVICES

Services will be provided to revise appraisal maps and independent reviews required during condemnations. Survey staking will be performed to identify right-of-way impacts in the field. Exhibits and documentation will be prepared to complete Resolution of Necessity (RON) for properties that require condemnation.

TASK 2 – DEWATERING ANALYSIS

The project requires a preliminary evaluation of the dewatering to assess if bid documents should allow for the dewatering activities and discharging of groundwater into local storm drain facilities. To review the potential for discharge in the local sewers, the water district requires an evaluation of the anticipated volume of discharge expected.

Subtask 2.1 Dewatering Analysis

The scope of work includes:

- Review of readily available geotechnical and geologic data including the geotechnical report prepared for the site
- Evaluate a preliminary rate of groundwater discharge for each sewer trench based on existing data assuming the entire trench will be dewatered
- Geotechnical calculations, findings and recommendations will be presented in a memorandum signed by a registered Geotechnical Engineer (GE) in the State of California.
- Address Review comments by attending one meeting or addressing one round of written comments
- The scope of work does not include any subsurface investigation, laboratory testing, or other items not specifically listed above.

Subtask 2.2 Coordination and Reviews

Consultant will coordinate with Chief, Office of Geotechnical Design South (OGDS)-Branch D for all necessary reviews and approvals.

April 6, 2022

TASK 3 – PILE DRIVABILITY FOUNDATION ANALYSIS

The pile drivability study is proposed in response to concerns from Caltrans on whether the proposed 20-inch-diameter closed end pipe piles can be driven to the current planned specified tip elevation of 14 feet with a driving resistance of 700 kips estimated using the LCPC static pile capacity analysis method.

Subtask 3.1 Pile Drivability Foundation Analysis

The analyses will be performed as part of the design phase of the project to evaluate pile behavior during a hammer impact. Our analyses will model the hammer-pile-soil system and using the one-dimensional “wave equation analysis” to evaluate the transmission of longitudinal stress waves within the pile. The wave equation uses the GRLWEAP computer program, which allows specific and varied input for the hammer, pile, and soil models. Analysis results are typically used for hammer and cushion selection, driving criteria, acceptance, and to control pile stresses. Results can be presented as a “drivability study” to assess whether the proposed hammer can install the pile to depth desired, or as a “bearing graph” of blow count vs. capacity, as an “inspector’s chart” indicating the minimum blow count required to achieve acceptable capacity at a given hammer energy. The WEAP analyses for this effort will be used in a drivability study.

The analyses are being performed in the design phase of the project. As such, a pile driving contractor has not been selected and pile driving system to be used for the project is not known. Options for selecting the input hammer/driving system for use in the analyses could include: 1) incorporating data provided to us from Caltrans for the hammer/driving system used to drive piles for the Rice Avenue-Highway 101 Overcrossing, or 2) incorporating a presumptive hammer/driving system selected by the geotechnical consultant.

TASK 4 – CONSTRUCTION BID PACKAGE

WKE will coordinate with city staff and assist with providing design documents and related project information for the city to prepare the bid package. This work will be performed on a Time-and-Materials basis with services provided as requested by the city up to the allocated budget.

Agreement No. A-8094

EXHIBIT B-2

SCHEDULE OF SERVICES

Activity	Proposed Date
A. Begin Work	July 2018
B. Draft PS&E	
B.1 Submit (65%) PS&E Alternative 2A	March 2019
B.2 Submit (65%) PS&E Alternative 2B	June 2020
B.3 Submit (95%) PS&E Alternative 2B	March 2021
C. Submit Final PS&E (100%) Alternative 2B	October 2021
D. Ready to List	June 2023
E. Advertise	July 2023
F. Award	December 2023
G. Begin Construction	January 2024
H. Completion of Construction	August 2027
I. Project Close Out	December 2027



EXHIBIT C-4 COMPENSATION RATES

April 6, 2022

Ms. Debbie O'Leary
Project Manager
City of Oxnard
305 West Third Street, 3rd Floor
Oxnard, CA 93030

Subject: Contract Modification to Contract No. A-8094 – MOD No. 5
Additional Engineering Services for Right-of-Way Acquisition
And Encroachment Permit Approval
Rice Avenue Grade Separation over Fifth Street/UPRR

Dear Debbie,

Attached is our proposal for the additional design services required to complete Right-of-Way Acquisition and to obtain approval of the Caltrans Encroachment Permit to move the project to construction.

Task No.	Description	Fee
1	Right-of-Way Acquisition	\$438,251.83
2	Dewatering Analysis	\$ 13,775.82
3	Pile Drivability Foundation Analysis	\$ 7,922.00
4	Construction Bid Package	\$ 35,609.83
Total		\$495,559.48

We have added the specialized services of InterAct PMTI to assist with the re-abandonment of the Shell Oil Wells and UtiliCoor to assist with the specifications for the abandoned Oil Pipeline Facilities impacted by the project. Both firms will use the Safe Harbor overhead rate of 120% and are not required by Caltrans Local Assistance to provide backup information for their overhead rate calculation.

Please contact me at (714) 955-7186 if you have any questions or require additional information,

Sincerely,

Carlos Cadena
Project Manager

CONTRACT PRICING PROPOSAL			Page 1 of 1	
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks			April 6, 2022	
Name of Proposer WKE, Inc.		DIVISIONS/LOCATIONS Santa Ana, CA		
Home Office Address 1851 E. First Street, Suite 1400, Santa Ana, CA 92705		CONTRACT NO. RFP PW18-47		
Services to be Performed Amdendment No. 5 - PS&E - Rice Avenue Grade Separation (Alternative		TOTAL AMOUNT OF PROPOSAL \$495,559.48		
DETAILED DESCRIPTION OF COST ELEMENTS				
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost
Project Manager	44	\$129.33	\$5,690.52	
Discipline Lead	572	\$105.53	\$60,363.16	
Senior Task Manager	46	\$103.59	\$4,764.91	
Senior Project Engineer 2	48	\$98.08	\$4,707.84	
Senior Project Engineer 1	580	\$85.09	\$49,349.30	
Project Engineer	40	\$66.55	\$2,661.80	
Assistant Engineer	20	\$47.14	\$942.80	
CADD	40	\$43.64	\$1,745.60	
Administrative	12	\$52.52	\$630.24	
Labor Cost	1,402		\$130,856.17	
Total Direct Labor				\$130,856.17
2. Labor Overhead Rate	Rate			
	147.06%		\$192,437.08	
				\$323,293.25
3. Travel*			Est. Cost (\$)	
a. Transportation				
Total Travel				\$0.00
4. Subcontractors/Suppliers**				Budget
Guida Surveying, Inc			\$	32,894.40
Hamner, Jewell & Associates (Riggs & Riggs)			\$	52,572.86
Fugro			\$	7,922.00
Group Delta			\$	8,645.23
UtilCoor			\$	5,867.40
InterAct			\$	32,035.00
Total Subcontractors/Suppliers (Cost to Complete)			\$	139,936.89
5. Other Direct Costs*				
6. General & Admin. Expense (of Item No. 4)	0%			\$0.00
7. Fee	10%			\$32,329.34
TOTAL COST AND FEE TO COMPLETE PROJECT				\$495,559.48
* Itemize items on second page				
** Attached pricing forms for all proposed subcontractors				

RICE AVENUE GRADE SEPARATION PROJECT			Project Manager	Discipline Lead	Senior Task Manager	Senior Project Engineer 2	Senior Project Engineer 1	Project Engineer	Assistant Engineer	CADD	Administrative	Total Hours	Cost
TASK 1 - RIGHT-OF-WAY ENGINEERING SERVICES													
1.1.1	Westridge Ventura TCE Surveys	Guida											\$ 5,993.46
1.1.2	UPRR Plats, Legal Descriptions and Appraisal Maps	Guida											\$ 12,498.59
1.1.3	Appraisal Maps and Legal Descriptions for Pegh TCE	Guida											\$ 4,498.12
1.1.4	UWCD New Generator Survey	Guida											\$ 9,904.23
1.2.1	Additional Pegh Parcels Valuations	HJA (Riggs & Riggs)											\$ 20,000.00
1.2.2	Provide In-Person Property Inspections	HJA (Riggs & Riggs)											\$ 650.00
1.2.3	UPRR Appraisal Maps Independent Review Updates	HJA (Riggs & Riggs)											\$ 12,000.00
1.3	Pegh & Hailwood Acquisition Coordination with Riggs/Caltrans	WKE		120			180					300	\$ 76,037.14
1.4.1	Shell Oil Well Abandonment Plans, Specification and Ownership Transfer	InterAct											\$ 32,035.00
1.4.2	Shell Oil Well Abandonment Coordination and Exhibits	WKE		140			80					220	\$ 58,649.82
1.5	Oil Pipeline Abandonment	UtilCoor											\$ 5,867.40
1.6.1	Right of Way Acquisition Appraisal Maps and Independent Reviews	HJA/Riggs & Riggs											\$ 19,922.86
1.6.2	Right of Way Acquisition and Coordination	WKE	40	220		48	320	40	20	40	12	740	\$ 180,195.21
SUBTOTAL - Task 1			40	480	0	48	580	40	20	40	12	1,260	\$ 438,251.83
TASK 2 - DEWATERING ANALYSIS													
2.1	Dewatering Analysis	Group Delta											\$ 8,645.23
2.2	Coordination and Reviews	WKE		12	6							18	\$ 5,130.59
SUBTOTAL - Task 2			0	12	6	0	0	0	0	0	0	18	\$ 13,775.82
TASK 3 - PILE DRIVABILITY FOUNDATION ANALYSIS													
3.1	Pile Drivability Analysis	Fugro										0	\$ 7,922.00
SUBTOTAL - Task 3			0	0	0	0	0	0	0	0	0	0	\$ 7,922.00
TASK 4 - BID PACKAGE ASSISTANCE													
4.1	Coordination and Support	WKE	4	80	40							124	\$ 35,609.83
SUBTOTAL - Task 4			4	80	40	0	0	0	0	0	0	124	\$ 35,609.83
TOTAL			44	572	46	48	580	40	20	40	12	1,402	\$ 495,559.48

PRICE SUMMARY SHEET
SCHEDULE OF FEES
April 6, 2022
SCHEDULE I - HOURLY RATE SCHEDULE

Classification	Job Function		Unburdened Salary Rate	Burdened Rate Salary
Project Manager	Project Manager/Director	C Cadena	\$129.33	\$351.47
Discipline Lead	Roadway/Structures	W Koo/D Weddell	\$105.53	\$286.79
Senior Task Manager	Drainage	J Zheng/A Wang	\$103.59	\$281.51
Senior Project Engineer 2	Roadway/Structures Design	M. Hynes	\$98.08	\$266.55
Senior Project Engineer 1	Roadway Design	M Dey/U Sandirasegaram/H Tong	\$79.79	\$216.83
Project Engineer	Design	A Banesh/Y Arai	\$66.55	\$180.85
Assistant Engineer	Design	A Mathur	\$50.35	\$136.83
CADD	CADD	J Barriga	\$48.75	\$132.49
Administrative	Administrative	E Koo	\$55.60	\$151.10

Field Overhead Rate:

Office Overhead Rate: 147.06%

Profit: 10.0%

GUIDA

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.545	Mileage	18	\$9.89
		3a. TOTAL	\$9.89
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.15	Printing (8.5"x11" Black & White)		\$0.00
\$0.45	Printing (11"x17" Black & White)		\$0.00
\$0.55	Printing (8.5"x11" Color)		\$0.00
\$0.75	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
		5. TOTAL	\$0.00
TYPE NAME AND TITLE			
Ralph W. Guida IV, PLS			
NAME OF FIRM		DATE OF SUBMISSION	
Guida Surveying		April 4, 2022	

Guida Surveying

TASK	DESCRIPTION	FIRM	Principal Land Surveyor	Sr. Project Manager	Project Manager	Project Surveyor	Project Analyst	CADD Survey Technician	CADD Operator	PLS Party Chief (Union Field)	Chairman (Union Field)	TOTAL HOURS	COST
Project Billing Rate (Burdened) for 1/1/22 to 12/31/22		Project Average	\$353.98	\$290.09	\$248.65	\$224.47	\$184.76	\$145.04	\$120.87	\$200.33	\$177.09		
TASK 2 - RIGHT-OF-WAY ENGINEERING SERVICES													
2.1	Westridge Ventura TCE	Guida	1	1	2	3	6	12	11			36	\$5,993.46
2.2	UPRR Plats and Legal Descriptions	Guida	2	2	6	16	14	9	6	4	4	63	\$12,498.59
2.3	Appraisal maps and legal descriptions for Pegh TCE	Guida	1	1	3	7	4	3	3			22	\$4,498.12
2.4.1	UWCD new generator surveying	Guida	1	2	4	6	5	2	1	14	14	49	\$9,894.34
2.4.2	ODCs												\$9.89
			5	6	15	32	29	26	21	18	18	170	\$32,894.40

HAMNER JEWELL & ASSOCIATES

FUGRO

CONTRACT PRICING PROPOSAL				
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks				
Name of Proposer		DIVISIONS/LOCATIONS		
Fugro		Ventura, CA		
Home Office Address		CONTRACT NO.		
5855 Rickenbacker Road, Commerce, CA 90040		RFP PW18-47		
Services to be Performed		TOTAL AMOUNT OF PROPOSAL		
Pile Drivability Evaluation		\$7,922.34		
DETAILED DESCRIPTION OF COST ELEMENTS				
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost
Principal	16	\$244.98	\$3,919.68	
Associate	0	\$201.54	\$0.00	
Senior	18	\$170.55	\$3,069.90	
Senior Project	0	\$159.99	\$0.00	
Project	0	\$137.20	\$0.00	
Senior Staff	0	\$119.26	\$0.00	
Staff	6	\$105.05	\$630.30	
Staff GIS/Illustrator	2	\$151.23	\$302.46	
Labor Cost	42		\$7,922.34	
Total Direct Labor				\$7,922.34
2. Labor Overhead Rate	Rate			
				\$0
3. Travel			Est. Cost (\$)	
a. Transportation				
b. Per Diem or Subsistence				
Total Travel				\$0
4. Subcontractors/Suppliers			Est. Cost (\$)	
Total Subcontractors/Suppliers				\$0
5. Other Direct Costs				\$0
6. General & Admin. Expense				\$0
TOTAL ESTIMATED COST AND FEE				\$7,922.34
Call				\$7,922.00

GROUP DELTA

Group Delta												COST TO COMPLETE
TASK	DESCRIPTION	FIRM	Principal	Associate	Senior	Project	Staff	Technician	Draftperson	Project Support	TOTAL HOURS	
Project Billing Rate (Burdened)		Project Average	\$293.18	\$204.84	\$157.78	\$121.39	\$95.14	\$108.56	\$111.52	\$88.18		
TASK - Preliminary Dewater Evaluation												
	Preliminary Groundwater Discharge Evaluation		3	24	0	0	30	0	0	0	57	\$8,645
	Review Existing Geotechnical Data and Sewer Plans*	Group Delta	1	4			4				9	\$1,492
	Evaluation of Preliminary Groundwater Discharge at Two Sewer Locations	Group Delta		8			16				24	\$3,159
	Preperation of Preliminary Geotechnical Dewatering Memorandum	Group Delta	2	8			10				20	\$3,175
	Response to Comments	Group Delta		4							4	\$819
SUBTOTAL - Task 5 - Geotechnical Investigation			3	24	0	0	30	0	0	0	57	\$8,645
SUBTOTAL Design Phase (Tasks 1 thru 6)			3	24	0	0	30	0	0	0	57	\$8,645
SUBTOTAL Construction Phase (Task 7)			0	0	0	0	0	0	0	0	0	\$0
SUBTOTAL Other Direct Cost			0	0	0	0	0	0	0	0	0	\$0
SUBTOTAL Subconsultants			0	0	0	0	0	0	0	0	0	\$0
TOTAL			3	24	0	0	30	0	0	0	57	\$8,645.23

UtilCoor

Utility Coordinating, Inc														
TASK	DESCRIPTION	FIRM	Principal	Principal PM/Engineer	Project Administrator	Principal Designer	Senior ROW Agent	0.00	0.00	0.00	0.00	0.00	TOTAL HOURS	COST
Project Billing Rate (Burdened) for 12/1/21 to 12/31/22		Project Average	\$231.00	\$207.90	\$115.50	\$161.70	\$177.87	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
1.5	Bid Specifications	Various	0	26	4	0	0	0	0	0	0	0	30	\$5,867.40
1.5	100% Specifications	Various		26	4								30	\$5,867.40
SUBTOTAL - Task 1 - Specification Preparation			0	26	4	0	0	0	0	0	0	0	30	\$5,867.40

InterAct

WKE, Inc.

InterAct

TASK	DESCRIPTION	FIRM	Data Analyst III	Data Analyst IV	Well Engineer IV	Principal Engineer	TOTAL HOURS	COST
Project Billing Rate (Burdened) for 12/1/21 to 12/31/22								
Project Average								
TASK 2 - PLAN PREPARATION								
2.3-10	Final Utility Plans	WKE/KJC	5	20	62	65	152	\$32,035.00
2.3-10h	Existing Oil Well Work	InterAct	5	20	62	65	152	\$32,035.00
	SUBTOTAL - Task 2 - Plan Preparation		5	20	62	65	152	\$32,035.00

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____

Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____

Date Executed _____

Executed in the County of _____ in the State of _____

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____

Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____

Date Executed _____

Executed in the County of _____ in the State of _____

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this 24th day of July, 2018, by and between the City of Oxnard, a municipal corporation (“**City**”), and WKE, Inc. (“**Consultant**”). City and Consultant are sometimes individually referred to as “**Party**” and collectively as “**Parties.**”

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

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

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

1. Scope of Services

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

2. Method of Performing Services

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

3. Standard of Performance

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

4. Nonexclusive Services

This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any services for Consultant’s own account or to any other person or entity as Consultant in its sole discretion shall determine. Performing such services will not materially interfere with the Services to be performed for the City.

5. Coordination of Services

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

6. Place of Work

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

7. Correction of Errors

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

8. Time for Performance

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

9. Principal in Charge

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

10. Permits, Licenses, Certificates

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

11. City's Responsibility

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

12. Term of Agreement

This Agreement shall begin on July 24, 2018, and expire on June 30, 2022.

13. Termination

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

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

14. Compensation

a. City agrees to pay Consultant in an amount not to exceed \$5,362,125.51 for the Services at rates provided in **Exhibit C** attached hereto and incorporated herein by this reference.

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

c. Payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant, its employees, subcontractors, agents and subconsultants.

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

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

15. Method of Payment

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

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

c. Consultant shall maintain current monthly records, books, documents, receipts, papers, accounts and other evidence pertaining to the Services performed and costs incurred. Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant

shall provide Manager with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

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

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

16. Responsibility for Expenses

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

17. Non-Appropriation of Funds

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

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

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

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

18. Records

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

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

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

19. Maintenance and Inspection of Records

a. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant; or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section 19 in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or

other written material from its subcontractors upon a request by the State Auditor and/or City.

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

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

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

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

20. Monthly or Quarterly Review

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

- a. Whether the Project is proceeding on schedule and within budget;
- b. Any requested changes to the Project Description, Scope of Work, Project Schedule, Overall Funding Plan, or Project Financial Plan contained in documents between the two entities;
- c. Major construction accomplishments during the month and/or quarter;
- d. Any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties;

- e. The status of the Project budget; and
- f. The status of critical elements of the Project.

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

21. Financial System

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

22. Confidentiality of Information

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

23. Hold Harmless, Indemnity and Defense

a. Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, CTC, State, all of their legislative bodies, and all of their officials, officers, employees and agents (the "**Indemnified Party**") from and against all liabilities regardless of nature, type or cause to the extent that the liabilities arise out of, pertain to, or relate to the negligence, recklessness, or willful omission or misconduct of Consultant, or its employees, agents or

subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, suits, actions, losses, allegations, damages, penalties, fines, and judgments, including but not limited to tortious, contractual, inverse condemnation or other theories or assertions of liability; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution (singularly a **"Claim"** and collectively the **"Claims"**).

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

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

24. Insurance

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

25. Independent Contractor

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

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

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

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

26. Conflict of Interest

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

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

27. Assignability of Agreement

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

28. Successors and Assigns

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

29. Fair Employment Practices

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

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

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

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

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

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

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

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

b. If disabled access review by the Department of General Services (Division of the State Architect) is required by law for the Project, Consultant shall conform all plans and specifications for such facilities to the provisions of California Government Code sections 4450

and 4454 as well as Title 24 of the California Code of Regulations.

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

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

32. Energy Efficiency

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

33. Force Majeure

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

34. Time of Essence

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

35. Covenants and Conditions

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

36. Governing Law

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

37. Compliance with Laws

a. Consultant shall comply with, and shall ensure its subcontractors and vendors comply with, all City, State, and federal ordinances, laws, statutes, regulations (including Title 23

Code of Federal Regulation [“CFR”] and 2 CFR Part 200), policies and procedures (including those set forth in the California Project Development Procedures Manual, Highway Design Manual, Local Assistance Procedures Manual and the Local Assistance Program Guidelines and all procedural and instructional memoranda as well as the California Transportation Commission SB1 Accountability and Transparency Guidelines, Trade Corridors Enhancements Program [“TCEP”] Guidelines, Local Partnership Program [“LPP”] Guidelines, Solutions for Congested Corridors Program [“SCCP”] Guidelines and related policies) now or hereafter in force pertaining to the Services performed by Consultant pursuant to this Agreement.

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

c. Consultant is to comply with, and ensure its subconsultants and subcontractors comply with, all CTC resolutions as adopted or currently amended as well as the guidelines, and policies applicable to State- funded programs (or projects) including, but not limited to, Section 190, State Highway Account, Public Transportation Account, Proposition 18, Proposition 1A, and the Road Repair and Accountability Act of 2017, respectively.

38. Debarment

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

39. Severability

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

40. Waiver

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

41. Counterparts

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

42. Arbitration

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

43. Expenses of Enforcement

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

44. Authority to Execute

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

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

45. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to WKE, Inc., 400 N. Tustin Avenue, Suite 275, Santa Ana, CA 92705, Attention: Carlos Cadena.

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

46. Amendment

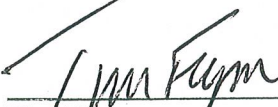
City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies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

47. Entire Agreement

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

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

CITY OF OXNARD



Tim Flynn,
Mayor

9/10/18
Date

WKE, INC.



Carlos Cadena,
Senior Vice President

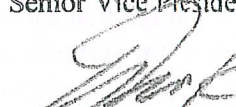
9/6/18
Date

APPROVED AS TO FORM:



Stephen M. Fischer,
City Attorney

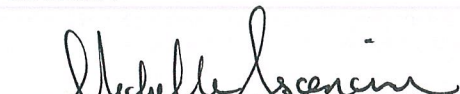
9/6/18
Date



Wei Koo, President

9/6/2018
Date

ATTEST:



Michelle Ascension, City Clerk

9/10/18
Date

* The City Manager is authorized to execute this Agreement pursuant to City Council authorization on July 24, 2018.

For any contract with a corporation, the City requires the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer. If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

SCOPE OF SERVICES

Solicitation # PW18-47
City Project 133101

Scope of Work:

The scope of services for this project includes providing final design for the Rice Avenue/ Fifth Street Grade Separation Project, from 30% design to completed bid-ready contract documents, including the bid proposal, plans, specifications, estimate, and permits. The services include preparing a PS&E package, utility coordination and design, and providing Right of Way Engineering and Acquisition on the City's behalf. Consultant will provide the necessary design, technical review, and support services consistent with bridge design, roadway design, railroad and CPUC permitting, and the California Department of Transportation (Caltrans) Local Assistance approval process. A portion of Fifth Street is within State Right of way, thus all portions of the project within State right of way will be designed in accordance with Caltrans criteria, and coordinated with Caltrans. The Scope of Work assumes the City will Advertise, Award, and Administer the project under the oversight of Caltrans Local Assistance.

Task 1 – Project Management

Following the Notice to Proceed (NTP), Consultant will prepare and submit a detailed work plan for the project. The work plan will provide details on all the tasks and subtasks identified by the Consultant and the City of Oxnard (City) and will be utilized for reporting purposes for grant funding.

In addition to the work plan, Consultant will develop a project schedule which will reflect all project milestones, review periods, and meetings. Consultant will be required to attend meetings for kickoff, 65% review, 95% review, and 100% review. Consultant may be required to attend additional meetings as necessary to complete the work. Both the work plan and schedule will be updated on a regular basis to reflect any changes to scope, schedule, etc., if any.

The Consultant will coordinate and participate in monthly Project Development Team (PDT) meetings with City staff and stakeholder representatives and at interim periodic Project milestones, as necessary. Meeting agendas for the planned meeting and summaries/notes from the previous meetings will be prepared by the Consultant at each meeting and distributed to the Project Manager and other attendees. An action item list and a status of project deliverables will be updated on an ongoing basis and be made available for each PDT meeting.

The Consultant will provide monthly invoices for work performed. The Consultant will prepare brief monthly progress reports to record ongoing progress on the project and to support the invoices submitted to the City for payment. Reports will include an explanation of tasks accomplished for the month, deliverables finished/submitted, anticipated tasks/progress for the next month, pending issues and schedule completion target dates (updated Project schedule).

The Consultant will plan for and ensure Quality Assurance and Quality Control (QA/QC) during the entire project. Designs, calculations, deliverables, and other work will be independently verified to ensure accuracy.

Deliverables:

- *Work plan (Project Management Plan)*
- *Project schedule*
- *Meetings*
- *Meeting agendas*
- *Meeting notes with action items list*

Solicitation # PW18-47
City Project 133101

- *Monthly progress reports*
- *Monthly invoicing*
- *QA/QC plan.*

Task 1.1-1 – Coordination/Administration

Meetings with affected parties will be held to discuss issues pertinent to analysis, design, and effects of the Project. During these meetings, the City and Caltrans may provide direction for development of the PS&E.

Consultant will participate in the following meetings:

Project Development Team (PDT) Meetings with the City and Caltrans will be held on a monthly basis to discuss policy, procedural and freeway-specific issues. Consultant will bring progress plans as appropriate. No special presentation materials will be required.

Agency Coordination/Technical Workshop Meetings will be held as needed to discuss technical issues with specific agencies. Consultant will bring progress plans as appropriate. No special presentation materials will be required. Collateral material may be black and white.

Right-of-Way Coordination Meetings will be held before starting work between Consultant, the City and Caltrans

Constructability Workshop Meetings will be held with the City and Caltrans to present, discuss and resolve constructability issues to minimize construction change orders. Consultant will present progress plans and specifications prior to the 65% and 95% submittals. Provide special presentation materials as needed to convey and resolve constructability issues.

Deliverables:

Following are the meeting materials which Consultant will be responsible for preparing and providing:

- *Notices*
- *Agendas*
- *Handouts*
- *Minutes*
- *Progress plans*

Following are administrative duties which will be performed by Consultant:

- Supervise subcontractors, coordinate, and monitor work for conformance with Caltrans standards and policies.
- Apply for and obtain Caltrans encroachment permits necessary for Consultant to be on the jobsite.
- Apply for and obtain City approvals and permits as required.
- Prepare, circulate, and file correspondence and memoranda as appropriate.
- Prepare and update Project Risk Register, including Risk Register Certification Form.
- Maintain Project files using the Caltrans Uniform File System.
- Thirty days after Notice to Proceed, Consultant will submit the Project Master Schedule to the City and Caltrans Project Managers.

Solicitation # PW18-47
City Project 133101

Task 1.1-2 – Work Plan

Consultant will prepare a Project Management Plan. Within thirty (30) days of receiving Notice to Proceed, Consultant will prepare a Project Management Plan for this PS&E, including a Communication Plan and a Risk Management Plan.

Deliverables:

- *Project Management Plan*

Task 1.1-3 – Project Schedule

Consultant will submit an initial Project Master Schedule. Following approval by the City, this schedule will become the Project Schedule. The approved Project Schedule will be displayed on the Project Master Schedule updates. The following elements must be included by Consultant in the Schedule:

- Work items and deliverables identified in accordance with a Work Breakdown Structure (WBS) as developed by Consultant and approved by the City
- Work items of agencies and other third parties that may affect or be affected by Consultant's activities
- Schedule will provide adequate time for the City to review, based on standard practices.
- Resource loading of work items in work hours to show the effort required to perform the work. Resource loading will be used to develop plan and actual progress curves
- The Project Master Schedule will include all data necessary to represent the total Project and the critical path will be clearly identified
- The order, sequence, and interdependence of significant work items will be reflected on the Project Master Schedule
- The following list of major tasks will be used to develop the Project Master Schedule:

Task 1 – Project Management

Task 2.1 – 65% PS&E Submittal

Task 2.2 – 95% PS&E Submittal

Task 2.3 – 100% PS&E Submittal

Task 2.4 – Right-of-Way Documentation and Engineering

Task 3.1 – 65% Specifications

Task 3.2 – 95% Specification

Task 3.3 – 100% Specifications

Task 4.1 – 65% Engineer's Estimate

Task 4.2 – 95% Engineer's Estimate

Task 4.3 – 100% Engineer's Estimate

Task 5 – Geotechnical Investigations

Solicitation # PW18-47
City Project 133101

Task 6 – Permitting

Task 7 – Bid and Construction Support

Major tasks should be broken down into subtasks as warranted.

Consultant will submit a copy of the Project Master Schedule to the City Project Manager for review and approval and a copy to Caltrans for information. Monthly schedule updates will be part of the Progress Report.

Task 1.1-4 – Monthly Progress Reports and Invoices

At the end of each month, Consultant will provide a detailed monthly Progress Report on the progress of the work performed that month with specific activities including dates of meetings and Consultant participation; progress of tasks; and list of and tasks completed that month.

Consultant will submit one copy of the Progress Report to the City Project Manager attached to the monthly Project Schedule update.

The narrative portion of the monthly Progress Report will describe overall progress of the work, discuss significant problems and present proposed corrective action and show the status of major changes. The report will also include a description of the work anticipated for the next month.

Progress of tasks will be discussed relative to the Project Schedule. All scheduled tasks will be updated to reflect current percent complete. If the latest completion time for a significant work item does not fall within the time allowed by the original Project Schedule, the sequence of work and/or duration will be revised by Consultant through concurrent operations, additional staffing or overtime, until the resultant schedule indicates that all significant project completion dates will be met. The target schedule will be displayed on the updated Project Schedule.

Consultant will submit the monthly Progress Report as part of the invoice package and also as an attachment to the monthly Project Schedule update.

Task 1.1-5 – Quality Assurance and Quality Control Plans

Consultant will prepare, implement and maintain a Quality Assurance and Quality Control Plan (QA/QC Plan) throughout the services under this Agreement. The QA/QC Plan will establish Quality Assurance and Quality Control processes and procedures; describe how the quality of the work products will be managed to minimize or eliminate errors and omissions; ensure that all design reports, studies, plans, specifications, quantities, estimates and other design documents are complete, accurate, consistent, checked, and reviewed; and will be prepared to an acceptable quality of the City.

The City encourages a commitment to quality throughout the preparation of Plans, Specifications & Estimates (PS&E) for the project.

At a minimum, the QA/QC Plan will address the following:

1. Quality Commitment: management commitment and message to achieve a quality culture and promote quality practices throughout the project delivery process.
2. Project Initiation and Early Activities: Ensure that the proper design criteria, guidelines, standards, specifications, directives, etc. are properly implemented throughout the entire

Solicitation # PW18-47
City Project 133101

Design Team at all times. Ensure that all field activities use equipment that is properly maintained and calibrated in accordance with the manufacturer's guidelines.

3. QA Manager: Commit a Quality Assurance Manager to the project who is qualified to implement the QA/QC Plan and oversee the QA/QC Plan compliance and conformance of the entire project team, conduct internal surveillances and audits of the entire design team, monitor quality performance, identify when and where corrective action is required, follow up on corrective action to ensure compliance, and actively engage in the City surveillances and audits. QA Manager will identify critical reviews in the Project Master Schedule.
4. Quality Control:
 - a. Provide the Quality Control Processes for checking and reviewing design documents. A discipline review will precede the inter-discipline review but the constructability review maybe sequential with the inter-discipline review.
 - b. Provide Quality Control Procedures for complete and independent checking, back checking, correction and verification of all types of calculations, drawings, reports, specifications, quantities and estimates. Establish an appropriate means to avoid conflicts and misalignments between existing facilities and proposed improvements. Provide checklists and ensure use when performing the quality control reviews.
 - c. Maintain a communication plan to adequately and consistently interface with the internal development of the design within all disciplines of work and all external stakeholders.
 - d. Maintain a review comment tracking system that encourages complete resolution of all comments and prevents any review comment from not being resolved.
 - e. Maintain and Action Item Register from the beginning of the project throughout the completion of the approved final design.
 - f. Maintain a Risk Identification, assessment and mitigation log from the beginning of the project. Note all design assumptions as a risk on the log and consider each risk as part of the contingency planning.
5. Quality Assurance:
 - a. Each deliverable will be verified and certified by the QA Manager and Project Manager as being prepared and checked in accordance with the approved QA/QC Plan. A QA Certification will accompany each submittal.
 - b. Identify critical reviews in the Project Master Schedule.
 - c. The Quality Assurance Manager will demonstrate that he/she is qualified to implement the QA/QC Plan.
6. Document Control:
 - a. Establish an electronic Document Management System that will be used to maintain and store project files and quality records.
 - b. Drawing quality records will be marked clearly as being checked, signifying that the preparation of the work products followed the QA/QC Plan established for the project.
 - c. Quality records and documentation will be maintained and provided to the City upon request.

Solicitation # PW18-47
City Project 133101

- d. Maintain interface documentation, meeting notes and correspondence.
7. Demonstrate how Project Management, production and Quality Management will cooperate with and participate in QA surveillances, audits and other monitoring performed by the City. Provide documentation to the City in advance of any planned QA surveillance or audit, as requested.
8. Implementation and Training: Ensure that Consultant and subconsultant staff are trained to properly implement, execute and maintain the approved QA/QC Plan processes and procedures. Maintain a training log of materials and attendees.

Within 30 days of receiving the Notice to Proceed, Consultant will submit a complete Design Quality Management Plan for review and approval by the City. The QA/QC Plan must be approved prior to all submittals.

Deliverables:

- 1 electronic copy of the QA/QC Plan

Task 2 – Plan Preparation

Consultant will prepare and submit plans at 65%, 95%, and 100% design completion. Plans will be submitted to the City of Oxnard, County of Ventura (County), Caltrans and all other agencies having jurisdiction for review and comment. All work products will be delivered in file or data formats compatible with City systems. The City will be copied on all correspondence. The anticipated plans required for the project include:

- Roadway (Typical Cross Sections, Layouts and Profiles/Superelevation diagrams)
- Construction Details
- Railroad Grade Crossing
- Storm Water Pollution Prevention/Erosion Control Plans
- Contour Grading
- Drainage
- Utilities
- Stage Construction/Traffic Handling Pavement Delineation/Signing
- Landscaping
- Signal and Lighting/Electrical
- Structural (Bridge, Retaining Walls, etc.)

Plans will be prepared using Caltrans Plans Preparation Manual format with City of Oxnard title block, Arch D 24" x 36". Plans will be prepared in English units using the Caltrans Highway Design Manual 6th Edition, California Manual on Uniform Traffic Control Devices, Caltrans Bridge Manual, Caltrans Bridge Design Aids Manual, and 2015 Caltrans Standard Plans and Standard Specifications. Final plans will be submitted on mylar to the City.

Submittal milestones for each bid package will be as described below:

- 65% PS&E
- 95% PS&E
- 100% PS&E
- Right-of-Way documentation and engineering

Solicitation # PW18-47
City Project 133101

- Bid-ready Plans, Specifications & Estimates
- Permits for Construction
- Resident Engineer's file
- Record Drawings

All final surveys, studies, calculations, designs, reports, maps, legal descriptions, plans, specifications, and estimates will include all original documents with seals and wet-signed signatures by registered professional land surveyors, engineers or architects licensed in the State of California.

Deliverables:

65%, 95%, and 100% design plans (including all studies/quantities and calculations)

Final Mylars

Task 2.1 – 65% PS&E SUBMITTAL

Task 2.1-1 – Roadway Plans

Consultant will incorporate the 35% submittal, prepared during PA/ED Phase, into the roadway plans and estimates.

Deliverables:

- *65% Title Sheet*
- *65% Typical Cross Sections*
- *65% Key Map and Line Index*
- *65% Layout Plans*
- *65% Profiles and Superelevation Diagrams*
- *65% Construction Details*
- *65% Contour Grading*
- *65% Summary of Quantities*

Consultant will perform surveys and mapping work for necessary control surveys, preliminary design data surveys and photogrammetric surveys commensurate with this component of the project as well as preliminary property boundary assessments, determination of status of existing preliminary ROW and its grid positioning, and associated land net mapping.

Deliverables:

- *65% Project Plans*

Task 2.1-2 – Drainage Plans

Consultant will prepare a final drainage report to address the existing drainage condition and the proposed mitigation and design. This report will consider both onsite and offsite systems. Consultant will prepare drainage plans, profiles, and quantities based on the drainage report. The drainage, temporary water pollution control, and erosion control plans will be prepared in accordance with Caltrans Standard Drainage Plans and Quality Sheets guidance. Consultant will also prepare temporary drainage plans where needed.

Deliverables:

- *65% Drainage Report*
- *65% Drainage Plans, Profiles, Details, and Quantities*
- *65% Water Pollution Control Plans*

- *65% Temporary Drainage Plans*

Erosion Control (Planting Plans)

Consultant will prepare a Schematic Landscape Plan based on information gathered during the kick-off meeting and site visit. The plan will consist of a proposed plant palette, landscape concept design, and sample materials for hardscape and softscape finishes, if appropriate. The plan will be submitted to the City for review and approval. Upon approval, the schematic plan, incorporated with any comments received will be developed into the 65% landscape plans.

Deliverables:

- *Schematic Landscape Plan*

Consultant will assist in selecting an appropriate plant palette, or hydroseed mix for the Best Management Practices (BMP) areas throughout the project. Planting Plan sheets will show the location and quantities of proposed plant materials based on an approved Schematic Landscape Plan.

Deliverables:

- *Plant palette*
- *65% Planting Plans, Legend, Notes, Details.*

Task 2.1-3 – Stage Construction, Detours, and TMP

Consultant will prepare stage construction traffic handling plans, and detour plans for each stage of the construction. Construction signs will follow Caltrans Standard plans and 2014 California Manual of Uniform Traffic Control Devices (CA MUTCD) guidelines. The detour plans will consider impact to traffic circulation within local streets due to current active City projects that may be under construction during the construction of this project. Consultant will prepare Transportation Management Plan based on the traffic analysis and construction staging. Consultant will identify construction phase detours and prepare lane closure charts.

Deliverables:

- *65% Transportation Management Plan*
- *65% Stage Construction CAS and Index*
- *65% Stage Construction Plans*
- *65% Stage Construction Details*
- *65% Stage Construction Quantity Sheets*
- *65% Traffic Handling Plans and Details*
- *65% Detour Traffic Signal and Rail Crossing*

Task 2.1-4 – Pavement Delineation Plans

Consultant will prepare pavement delineation plans to identify locations of painted and thermoplastic stripes and markings, pavement markers, and delineators.

Deliverables:

- *65% Pavement Delineation Plans, Details, and Quantities*

Solicitation # PW18-47
City Project 133101

Task 2.1-5 – Sign Plans

Consultant will prepare Sign Plans for the project area. These plans will be prepared at a 1" = 50' scale using field review data, proposed improvement plans, and available as-builts. The plans will include sign callouts, details, and quantities based upon Caltrans Plans Preparation Manual

Deliverables:

- 65% Sign Plans, Details, and Quantities

Task 2.1-6 – Electrical Lighting, Signals

Consultant will prepare electrical plans using field review data, proposed improvement plans, and available as-builts. Caltrans symbology will be used, and the plans will conform to City and Caltrans requirements. Consultant will prepare traffic signal plans for the connector intersections on 5th Street and SR 34. The plans will be at a scale of 1" = 20' and will include the required intersection safety lighting.

Deliverables:

- 65% Traffic Signal Plan, Details, and Quantities

Consultant will prepare the PS&E for the following lighting systems in conjunction with the design of the Project:

Lighting design will consist of new and relocated lighting between Sturgis Road and the new bridge over 5th Street and between the new bridge and the southerly improvements on Rice Avenue

- 5th Street and SR 34 Lighting - the design will consist of new lighting on 5th Street and SR 34 between the limits of the westerly and easterly improvements
- Rice Avenue Bridge Lighting – the design will include lighting using standard or decorative poles and luminaires on the new bridge (proposed to provide uniform lighting levels along Rice Avenue)
- Eastman Avenue – the design will consist of the lighting modification for the new cul-de-sac
- Temporary Detour Lighting – which will include lighting at critical points along the detours during Stage 1 and Stage 3B
- Prepare signal interconnect conduit for 5th Street and Rice Avenue
- Provide electrical service for up to three irrigation control.

This scope includes coordination as needed with SCE to establish new service points.

Plans will be prepared in accordance with the Caltrans Plans Preparation Manual.

Deliverables:

- 65% Rice Avenue and SR 34 Lighting
- 65% 5th Street Lighting
- 65% Eastman Avenue Street Lighting
- 65% Temporary Lighting (Stage 1)
- 65% Temporary Lighting (Stage 3B)
- 65% Bridge Lighting
- 65% Signal Interconnect
- 65% Irrigation Controller

Task 2.1-7 – Irrigation & Planting Plans

Upon approval of the Schematic Landscape Plan, Consultant will prepare the 65% plans. The irrigation removal plans will be based on existing irrigation as-built drawings.

Deliverables:

- 65% Irrigation Removal Plans, Legend, Notes, Details

Consultant will prepare 65% Irrigation Plans.

Deliverables:

- 65% Irrigation & Planting Plans, Details, Legend, Notes, Details.

Consultant will prepare irrigation and planting quantities sheets.

Deliverables:

- 65% Irrigation and planting Quantity Sheets

Task 2.1-8 – Bridge Plans (Unchecked Details)

Consultant will prepare layout plans and structural details for Rice Avenue Overcrossing. Consultant will also prepare draft technical special provisions for the bridges as part of Task 3.

Bridge design will be in accordance with Caltrans Seismic Design Criteria, Bridge Design Specifications, Memos to Designers and Bridge Design Details Manual. Details and construction specifications will be prepared in accordance with Caltrans Standard Plans, Standard Specifications, and Standard Special Provisions. Bridge clearances will conform to BNSF, SCRR and Metrolink grade separation design criteria.

Consultant will update the bridge General Plan estimate to verify its ongoing validity.

Consultant will develop conceptual illustrations for the structural aesthetics of the bridge and retaining walls. Structural elements include bridge railing, bridge barrier, wing wall and abutment wall.

Deliverables:

- Unchecked Structure Plans and Details

Task 2.1-9 – Retaining Wall Plans

Consultant will prepare retaining wall layout plans, profiles and structural details for the walls specified along the project route. Plans will incorporate aesthetic details for the walls.

Consultant will prepare draft technical special provisions for the retaining walls as part of Task 3.

Deliverables:

- Retaining Wall Keymap
- Retaining Wall Plans, Details, and Quantities (5 Walls)

Consultant will prepare the Structure Type Selection documents and General Plan sheets for all non-standard walls to comply with the most current Caltrans guidelines. The format will conform to Caltrans latest OSFP Information and Procedures Guide.

Solicitation # PW18-47
City Project 133101

The Type Selection Report will include a discussion of foundation and falsework requirements, seismic and aesthetic considerations, traffic handling requirements and alternatives, and construction cost and staging. In addition, Consultant will develop an order-of-magnitude construction cost estimate. Anticipated construction methods will be identified in the Type Selection process and coordinated with the final Project geometry. Consultant will prepare the Bridge Site Data Submittal (BSDS) documents per Caltrans requirements to support the Type Selection Report.

Consultant will submit Type Selection documents to the Caltrans Office of Special Funded Projects (OSFP) for review and approval. Consultant will attend a Type Selection Meeting in Sacramento and revise the Type Selection Report to incorporate any comments received.

Deliverables:

- *Structure Type Selection Report, Retaining Wall General Plans for each non-standard wall.*

Consultant will facilitate and attend a Type Selection review meeting at Caltrans Headquarters in Sacramento to finalize structure type, foundations, seismic design, aesthetics, and traffic handling plans for each non-standard retaining wall.

Consultant will summarize and submit meeting proceedings to the liaison engineer within one week for written Type Selection approval. The meeting summary may update or supplement the Type Selection Report.

Deliverables:

- *Meeting summary in a memorandum*

Task 2.1-10 – Utility Plans

Consultant will collect and review available documents including, but not limited to, utility as-built drawings within the project site, the geotechnical investigation for the project and any others within the project site, City water and sewer master plan documents and other relevant reports and documentation. Once data collection, disbursement and review have been completed by the Consultant, a site visit will be made. An internal review meeting to discuss results/issues resulting from the site visit and existing data review will be held.

Consultant will conduct a field reconnaissance of the project site. This field work will allow the project team to become familiar with the project area and the project needs and requirements. The field reconnaissance will verify data obtained and reviewed, verify surface features etc. and help assure the design will accommodate actual field conditions.

Consultant will prepare utility plans in conformance with Caltrans Plans Preparation Manual on Caltrans title block. Plans will be prepared in English units using the Caltrans Highway Design Manual 6th Edition and 2015 Caltrans Standard Plans and Standard Specifications.

Consultant will prepare relocation plans and profiles in conformance with Caltrans Plans Preparation Manual format with City of Oxnard title block, Arch D 24" X 36". Plans will be prepared in English units using the Caltrans Highway Design Manual 6th Edition and 2015 Caltrans Standard Plans and Standard Specifications.

Solicitation # PW18-47
City Project 133101

Consultant anticipate the drawings for the water and Sewer utility relocations will include the following sheets:

Deliverables:

- 20 Potholes
- 65% Utility Plans
- 65% Utility Conflict Matrix
- 65% City Sewer Line Relocation Plans and Profiles
- 65% City Water Line Relocation Plans and Profiles
- 65% United Water Conservation District Water Line Relocation Plans and Profiles
- 65% City 36" Sewer Line South of State Route 34 Relocation Plans and Profiles

Task 2.1-12 – Storm Water Data Report

Consultant will prepare a Storm Water Data Report (SWDR) to address storm water quality (NPDES & Caltrans) requirements.

Deliverables:

- 65% Storm Water Data Report

Task 2.1-13 – Constructability Review

Consultant will perform a constructability review of 65% Submittal.

Task 2.1-14 – QA/QC

Consultant will conduct Quality Assurance/Quality Control reviews on 65% Submittal based on requirements included in the QA/QC Plan.

Task 2.2 – 95% PS&E SUBMITTAL

Task 2.2-1 – Update Roadway Plans

This submittal will include comments, reviews, coordination efforts, and updated information. Consultant will update all 65% roadway plans and will provide quantity sheets with updated Special Provisions and BEES estimate per Task 3 and 4. Any Revised and/or New Standard Plans developed by Caltrans will be included with Consultant's Plan submittal. All quantities will be independently checked and all issues raised by independent quantity checker(s) will be resolved prior to the submittal. The estimate will reflect checked and resolved quantities.

Deliverables:

- 95% Title Sheet
- 95% Typical Cross Sections
- 95% Key Map and Line Index
- 95% Project Control Plans
- 95% Layout Plans
- 95% Profiles and Superelevation Diagrams
- 95% Construction Details
- 95% Contour Grading
- 95% Summary of Quantities

Solicitation # PW18-47
City Project 133101

Task 2.2-2 – Update Drainage Plans

Consultant will update the drainage plans, water pollution control plans, temporary drainage plans, and planting plans based on comments received from all involved agencies.

Deliverables:

- 95% Drainage Report
- 95% Drainage Plans, Profiles, Details, and Quantities
- 95% Water Pollution Control Plans
- 95% Temporary Drainage Plans
- 95% Planting Plans, Legend, Notes, Details.

Task 2.2-3 – Update Stage Construction and Detours

Consultant will update the stage construction plans, and detour plans based on comments received from all involved agencies.

Deliverables:

- 95% Stage construction and traffic handling/detour plans, profiles, details, and quantities
- 95% Detour layouts, profiles, and super elevation diagrams
- 95% Construction area signs

Task 2.2-4 – Update Pavement Delineation Plans

Consultant will update the pavement delineation plans based on comments received from all involved agencies.

Deliverables:

- 95% Pavement Delineation Plans, Details, and Quantities

Task 2.2-5 – Update Sign Plans

Consultant will update the sign plans based on comments received from all involved agencies.

Deliverables:

- 95% Sign Plans, Details, and Quantities

Task 2.2-6 – Update Electrical Lighting, Signals

Consultant will update the electrical plans based on comments received from all involved agencies.

Deliverables:

- 95% Traffic Signal Plan, Details, and Quantities
- 95% Rice Avenue Lighting
- 95% 5th Street and SR 34 Lighting
- 95% Eastman Avenue Street Lighting
- 95% Temporary Lighting (Stage 1)
- 95% Temporary Lighting (Stage 3B)
- 95% Bridge Lighting
- 95% Signal Interconnect
- 95% Irrigation Controller

Solicitation # PW18-47
City Project 133101

Task 2.2-7 – Update Irrigation Plans

Consultant will update the irrigation and planting plans based on comments received from all involved agencies.

Deliverables:

- 95% Irrigation Removal Plans, Legend, Notes, Details
- 95% Irrigation and Planting Plans, Details, Legend, Notes, Details.
- 95% Irrigation Quantity Sheets

Task 2.2-8 – Update Bridge Plans

Consultant will independently review the unchecked plans, draft special provisions, quantities, and construction cost estimate for the Bridges and retaining walls. Consultant's independent review team will analyze the structures, verify member capacities, review the special provisions, and prepare independent quantity calculations. All issues raised by the checkers will be resolved with the structural designers. The final design will reflect agreement among the designers and independent checkers.

Deliverables:

- Checked bridge plans, reduced size
- Design calculations
- Design Independent check calculations
- Quantities and check calculations

Task 2.2-9 – Update Retaining Wall Plans

Consultant will independently review the unchecked plans, draft special provisions, quantities, and construction cost estimate for the Bridges and retaining walls. Consultant's independent review team will analyze the structures, verify member capacities, review the special provisions, and prepare independent quantity calculations. All issues raised by the checkers will be resolved with the structural designers. The final design will reflect agreement among the designers and independent checkers.

Deliverables:

- Checked retaining wall plans, reduced size
- Design calculations
- Design Independent check calculations
- Quantities and check calculations

Task 2.2-10 – Update Utility Plans

Consultant will update the utility plans and relocation plans based on comments received from all involved agencies.

Deliverables:

- 95% Utility Plans
- 95% Utility Conflict Matrix
- 95% City Sewer Line Relocation Plans and Profiles
- 95% City Water Line Relocation Plans and Profiles

Solicitation # PW18-47
City Project 133101

- 95% United Water Conservation District Water Line Relocation Plans and Profiles
- 95% City 36" Sewer Line South of State Route 34 Relocation Plans and Profiles

Task 2.2-11 – Construction Schedule

Consultant will prepare a CPM construction schedule in consultation with the City Construction Manager and Caltrans based on the estimated required working days for project construction.

Deliverables:

- CPM Schedule

Task 2.2-12 – Utility and ROW Update

Consultant will verify and update utility and ROW engineering data. Revisions to the Appraisal Maps will be performed by Consultant.

Deliverables:

- Report containing all updated utility and ROW engineering data with changes clearly identified

Task 2.2-13 – Update SWDR

Consultant will update the Storm Water Data Report (SWDR) based on comments received from Caltrans and City.

Deliverables:

- 95% SWDR

Task 2.2-14 – Environmental Commitment Record (ECR)

Task 2.2-14a – Environmental Commitment Record (ECR)

The Final EIR/EA include environmental commitments related to land use, air quality, biology, community, cultural resources, utilities and emergency services, traffic and transportation, hazardous waste, and climate change. Consultant will prepare, update, and maintain the environmental commitments record (ECR) and will document completion of all environmental commitments throughout the pre-construction and construction monitoring phases. Consultant will update and maintain both electronic and hard copies of the ECR and all documentation associated with environmental compliance.

Deliverables:

- Completed Environmental Commitments Record

Task 2.2-14b – Environmental Mitigation

If trimming or removal of vegetation/trees or construction is conducted between February 1 and September 15, Consultant will conduct nesting bird surveys within 500 feet of the construction area to ensure any nesting birds would not be impacted by the project. Consultant will conduct pre-construction surveys no more than three days prior to the start of construction to ensure that nesting birds are not within 300 feet of the construction area (500 feet for raptors). If any nesting bird is found in or adjacent to the construction area, Consultant will coordinate with the City, as well as the appropriate regulatory agency, to develop and implement appropriate avoidance measures. Consultant will summarize the results of the surveys and any subsequent coordination in a memo format report for the project file. This scope does not include pre-construction surveys for special-status or otherwise protected species.

Solicitation # PW18-47
City Project 133101

Deliverables:

- *Pre-construction Nesting Bird Survey Report*

Consultant will coordinate and complete all tasks outlined in the ESA Action Plan that was prepared for the project. Tasks include the identification, installation, and removal of ESA fencing; notification of initiation and completion of construction; contractor awareness training; site inspection; construction monitoring; and reporting.

Deliverables:

- *Complete all tasks outlined in the ESA Action Plan*

Consultant will assist the City with ensuring that design-related avoidance, minimization, and mitigation measures are successfully integrated into project design plans and contract specifications/special provisions. Specifically, Consultant will review final design plans and contract specifications/special provisions to ensure all relevant NEPA/CEQA obligations have been adequately incorporated. Consultant will review the draft and make direct additions, supplemental comments and/or create specialized, non-standard environmental specifications in track-changes for a seamless transfer of information. During the review, Consultant will coordinate with the project engineer and other team members (as required) throughout the review process to efficiently make any necessary changes.

Deliverables:

- *Supporting information concerning environmental commitments and permitting measures for design plans and contract specifications/special provisions*

Task 2.2-14c – Environmental Document Re-Validation

Not Included.

Task 2.2-15 – Update TMP

Consultant will update the TMP based on comments received from all involved agencies.

Deliverables:

- *95% TMP*

Task 2.2-16 – CPUC GO 88B application and Section 190 funding request

Not Included.

Task 2.2-17 – Update Drainage Report

Consultant will update the drainage report based on comments received from all involved agencies.

Deliverables:

- *95% Drainage Report*

Task 2.2-18 – Constructability Review

Consultant will perform a constructability review of 95% Submittal.

Task 2.2-19 – QA/QC

Consultant will conduct Quality Assurance/Quality Control reviews on 95% Submittal based on requirements included in the QA/QC Plan.

Task 2.3 – 100% PS&E SUBMITTAL

Task 2.3-1 – Final Roadway Plans

Consultant will submit the Final PS&E package to the City and to Caltrans District Office Engineer and Office of Special Funded Projects (OSFP) for final approval. The submittal will incorporate review comments from all involved agencies and include all completed forms in the RTL Guide.

Deliverables:

- *Final Title Sheet*
- *Final Typical Cross Sections*
- *Final Key Map and Line Index*
- *Final Project Control Plans*
- *Final Layout Plans*
- *Final Profiles and Superelevation Diagrams*
- *Final Construction Details*
- *Final Contour Grading*
- *Final Summary of Quantities*

Task 2.3-2 – Final Drainage Plans

Consultant will update the drainage plans, water pollution control plans, temporary drainage plans, and planting plans based on comments received from all involved agencies.

Deliverables:

- *Final Drainage Report*
- *Final Drainage Plans, Profiles, Details, and Quantities*
- *Final Water Pollution Control Plans*
- *Final Temporary Drainage Plans*
- *Final Planting Plans, Legend, Notes, Details.*

Task 2.3-3 – Final Stage Construction and Detours

Consultant will update the stage construction plans, and detour plans based on comments received from all involved agencies.

Deliverables:

- *Final Stage construction and traffic handling/detour plans, profiles, details, and quantities*
- *Final Detour layouts, profiles, and super elevation diagrams*
- *Final Construction area signs*

Task 2.3-4 – Final Pavement Delineation Plans

Consultant will update the pavement delineation plans based on comments received from all involved agencies.

Deliverables:

- *Final Pavement Delineation Plans, Details, and Quantities*

Task 2.3-5 – Final Sign Plans

Consultant will update the sign plans based on comments received from all involved agencies.

Deliverables:

- *Final Sign Plans, Details, and Quantities*

Task 2.3-6 – Final Electrical Lighting, Signals

Consultant will update the electrical plans based on comments received from all involved agencies.

Deliverables:

- *Final Traffic Signal Plan, Details, and Quantities*
- *Final Rice Avenue Lighting*
- *Final 5th Street Lighting*
- *Final Eastman Avenue Street Lighting*
- *Final Temporary Lighting (Stage 1)*
- *Final Temporary Lighting (Stage 3B)*
- *Final Bridge Lighting*
- *Final Signal Interconnect*
- *Final Irrigation Controller*

Task 2.3-7 – Final Irrigation Plans

Consultant will update the irrigation plans based on comments received from all involved agencies.

Deliverables:

- *Final Irrigation Removal Plans, Legend, Notes, Details*
- *Final Irrigation Plans, Details, Legend, Notes, Details.*
- *Final Irrigation Quantity Sheets*

Task 2.3-8 – Final Bridge Plans

Consultant will update the bridge plans based on comments received from all involved agencies.

Deliverables:

- *Final Bridge Plans and Details*

Task 2.3-9 – Final Retaining Wall Plans

Consultant will update the retaining wall plans based on comments received from all involved agencies.

Deliverables:

- *Final Retaining Wall Plans and Details*

Task 2.3-10 – Final Utility Plans

Consultant will update the utility plans based on comments received from all involved agencies.

Deliverables:

- *Final Retaining Wall Plans and Details*

Task 2.3-11 – Resident Engineer File

Not Included.

Task 2.3-12 – Final Reports

Consultant will update the drainage report, SWDR, and TMP based on comments received from all involved agencies.

Deliverables:

- *Final Drainage Report*
- *Final SWDR*
- *Final TMP*

Task 2.3-13 – Final Construction Schedule

Consultant will update the construction schedule based on revised stage construction plans.

Deliverables:

- *Final CPM Construction Schedule*

Task 2.3-14 – QA/QC

Consultant will conduct Quality Assurance/Quality Control reviews on 95% Submittal based on requirements included in the QA/QC Plan.

Task 2.4 – Right of Way Documentation and Engineering

Task 2.4-1 – Right of Way Engineering

Task 2.4-1a – Perform Record Data Search

Search, acquisitions, and analysis of appropriate deeds, field notes, and survey maps contained in the State, County, and City files.

Task 2.4-1b – Acquire Title Reports

Acquire title report for all parcel impacted by proposed R/W fee and easement takes.

Task 2.4-1c – Perform Land Net Recovery and Field Ties

Activities necessary to expand, establish, detail, and field tie control surveys for purposes of perpetuation of existing monumentation. Includes preparing survey request, planning, research, field survey, processing and adjusting data, and preparing survey supplemental control map.

Deliverables:

- *Field Collection Coordinates, processing and land net adjustments*

Task 2.4-1d – Prepare Land Net Map - "Before Condition" Record of Survey

Activities necessary to perpetuate cadastral points prior to construction. Field collection of point positions, monument identification, and survey calculations necessary to accurately identify the horizontal positions as required in section 8762 of the Professional Land Surveyors Act, Business and Professions Code, State of California.

Deliverables:

- *File Record of Survey, Caltrans Standards*

Task 2.4-1e – Perform Monument Perpetuation Surveys

Activities necessary to FIELD COLLECT cadastral points prior to construction. Field collection of point positions, monument identification, and survey calculations necessary to accurately identify the horizontal positions as required in section 8762 of the Professional Land Surveyors Act, Business and Professions Code, State of California.

Deliverables:

- *Supportive Field Surveys for Record Of Survey*

Task 2.4-1f – Prepare Right-of-Way Appraisal Maps

Preparation of Caltrans Right-of-Way Appraisal Maps associated with permanent easements, land takes, and temporary construction easements associated with the project requirements.

Deliverables:

- *Appraisal Maps*

Task 2.4-1g – Prepare Acquisition Documents

Includes preparing documents associated with identifying, depicting, and preparing documents associated with defining limits and acreage of acquisitions necessary for project needs.

Deliverables:

- *Acquisition Documents*

Task 2.4-1h – Prepare Resolution of Necessity Legal Description and Plats

Prepare Resolution of Necessity and any additional information for the filing of the complaint, and the preparation of any attendant map or plat.

Task 2.4-1i – Prepare Director's Deed and Plats

Prepare Deed's and Plats necessary for acquisition efforts. Legal Descriptions and Plats will be in conformance with Caltrans Standards.

Deliverables:

- *Legal Descriptions, Plats, and Deeds*

Task 2.4-1j – Prepare Utility Legal Description and Plat

Includes documentation associated with research, title reports, supporting materials, and field notes associated with acquisition efforts for individual parcels.

Deliverables:

- *Project binders to be submitted to the City and Caltrans*

Task 2.4-1k – Prepare Parcel Files

Includes documentation associated with research, title reports, supporting materials, and field notes associated with acquisition efforts for individual parcels.

Deliverables:

- *Project binders to be submitted to the City and Caltrans*

Task 2.4-1l – Prepare appraisals

Consultant will proceed with the right of way appraisal process, described as follows

- Consultant will mail a notification letter and acquisition policies brochure to the property owner requesting permission to conduct an on-site inspection of the property, advising them of their right to accompany the appraiser at the time of the inspection, and requesting information regarding the property appraised which could influence the appraised value.
- Appraiser will review title information pertaining to respective ownerships and will review drawings and other pertinent information relative to the parcel.

Solicitation # PW18-47
City Project 133101

- Appraiser will inspect each property personally with the owner (if desired) and take photographs to document the inspection with for use in the report.
- Appraiser will inventory all improvements affected by the proposed acquisition and take notes on their existing disposition (i.e., pay-for and remove vs. move back).
- Appraiser will conduct market research to support the selected appraisal methodologies and will document and confirm comparable sales information.
- Appraiser will prepare a narrative appraisal report that conforms to the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal study and report are intended to serve as an acquisition appraisal and will be prepared in a summary format consistent with the specifications for narrative appraisal reports.
- Upon completion of the fee appraisal, a formal review by an independent appraiser will be conducted in accordance with federal regulations and Caltrans procedures manual.
- Consultant will receive and analyze the completed appraisal reports accordingly.

Task 2.4-1m – Prepare secondary appraisals

Consultant to prepare secondary appraisals based on following APNs:

APN	Owner
218-0-011-475	Hailwood Inc.
218-0-011-435	United Water Conservation District
217-0-020-125	E & H Land Company LLC

Task 2.4-1n – Prepare Right-of-Way Requirement Maps (PD-26)

Prepare Caltrans PD-26 Documents and Exhibits in compliance with Caltrans standards for each acquisition parcel.

Deliverables:

- PD-26 Exhibit

Task 2.4-2 – Right of Way Acquisition

Consultant will perform right of way acquisition services for the following 11 ownerships of 18 parcels.

Solicitation # PW18-47
City Project 133101

Owner	APN
Pacific Landmark LTD	216-0-195-145
Zaki Family Partnership	216-0-195-095
Stellar Ventures Group LLC	216-0-195-105
Westridge Ventura I	216-0-195-055
Hiji Bros and Nishimori Bros	216-0-193-105
Cam-Rio Properties	217-0-020-095
E&H Land Company	217-0-020-105
	217-0-020-125
	217-0-020-135
Hailwood Inc	218-0-011-475
Pegh Investments LLC	216-0-160-525
	216-0-160-545
	216-0-160-555
	216-0-160-565
	216-0-160-575
	216-0-160-535
United Water	218-0-011-435
Union Pacific Railroad	216-0-160-165 (TCE)

Consultant will establish and maintain a complete and current parcel diary record file of each ownership. Once the appraisal process is complete and appraisals are reviewed and pre-approved by the City, and review appraisals done per federal guidelines, Consultant would then prepare offer packages for each owner that will include an offer letter, Appraisal Summary Statement, proposed Right of Way Agreement and Deed. These documents would be presented to City for review and pre-approval prior to presenting offers to property owners. After offer presentation, Consultant will pursue agreements with each owner to finalize the right of way transfers. For any purchase efforts that do not culminate in mutually acceptable amicable agreements, Consultant will coordinate with the City Attorney's office in conjunction with any required Necessity Hearing scheduling. Once offers reach final agreement, Consultant will process all documents for necessary approvals and coordinate escrows, title insurance, and closings. It is always our goal to reach cooperative agreements in lieu of eminent domain litigation on the City's behalf.

Task 3 –Specification Preparation

The Consultant will prepare and submit project specifications at the 65%, 95%, and 100% design completion. The front-end Bid Proposal and Standard Specifications will be City of Oxnard documents, and the Special Provisions will be prepared following Caltrans Special Provisions. The specification package will be submitted to the City for review and comment. The City will distribute the specifications to the County, Caltrans, and others for review and comment. The specifications will follow the Caltrans format.

Deliverables:

- 65%, 95%, and 100% Bid Specifications for review
- Final Specifications

Solicitation # PW18-47
City Project 133101

Task 4 – Engineer’s Estimate of Probable Cost

Consultant will prepare and submit an Engineer’s Estimate of Probable Cost at the 65%, 95%, and 100% design completion. The Engineer’s Estimate should indicate items that are considered non-participating to receive grant funding. The Engineer’s Estimate will be submitted to the City for review and comment. The City will distribute the specifications to the County, Caltrans, and others for review and comment. The format will follow Caltrans standards.

Deliverables:

- 65%, 95%, and 100% Engineer’s Estimate for review
- Final Estimate

Task 5 –Geotechnical Investigation

The Consultant will ensure that all geotechnical conditions within the Project limits that may affect final design and construction are identified and addressed in the design of the Project. Consultant will contract with a qualified Geotechnical Engineer to prepare a Final Geotechnical Investigation Report providing recommendations for the design of structural foundations, bridges, and all retaining walls associated with the Project. The Final Geotechnical Investigation Report will provide foundation design parameters, bearing capacity, anticipated settlements, backfill requirements, trenching recommendations, compaction requirements, subgrade preparation, and treatment recommendations for wet, unsuitable, and/or saturated conditions.

The Geotechnical Reports will contain project description, table of existing soil profile at all boring locations (identifying thickness and material types for pavement, base, soil, and rock), recommendations for bedding and backfill of pipeline trenches, test results, traffic indices (City will provide Traffic Index), proposed structural sections, proposed subgrade preparation for unsuitable or saturated material (estimated depths, quantities of over excavation, and treatment procedures), boring logs and location maps (showing depths of borings, horizontal distances from known points to boring locations, and geotechnical analyses).

Task 5.1 – Geotechnical and Foundation Reports

Task 5.1a – Geotechnical Design Report (GDR)

Consultant will prepare a Geotechnical Design Report (GDR) for the project with final Log of Test Boring plan sheets for the grade separation bridge for the project in general conformance with Caltrans Guidelines for Geotechnical Design Reports, Version 1.3, dated December 2006 using subsurface data, laboratory test results and findings from our additional or updated geotechnical analyses. Consultant will provide a draft GDR for internal review by the project team. After receiving comments from the project team on the draft GDR, Consultant will review those comments, work to incorporate them, and submit a final GDR.

Task 5.1b – Percolation Testing (4 Locations)

In an effort to evaluate the ability of the near-surface soils to provide infiltration for storm water percolation, Consultant will perform bore hole infiltration tests in the willow test drill holes with infiltration test intervals planned at two to five feet and six to ten feet below grade. However, the test interval will be adjusted to a willower interval if groundwater is encountered within the current proposed test interval.

**Solicitation # PW18-47
City Project 133101**

Infiltration tests will be performed in general accordance with common local practice, such as that described in Ventura County Technical Guidance Manual for Stormwater Quality Control Measures, Manual Update 2011. . Borehole infiltration tests will be performed in each test hole by filling each hole with water and monitoring water loss rates. Work related to bore hole drilling and construction of the bore hole infiltrometers will be performed as part of the final Geotechnical Investigation Report. Consultant estimates the bore hole drilling, installation, infiltration set up and testing work can be completed in approximately two days on-site.

Upon completion of infiltration testing, Consultant will pull the casing from the holes and fill the remaining portions of the holes with soil. Consultant will cap the holes in paved areas with black-dyed quick set concrete.

Consultant will prepare a letter-report documenting the results of the percolation testing. The letter-report will describe the work performed, provide logs of the percolation test drill holes, and summarize the results of field percolation testing. Consultant understands that the findings of this work will be used to assist in the design of low impact stormwater management systems (stormwater BMPs) for the project.

Consultant will provide a draft letter-report for internal review by the project team. After receiving comments from the project team on the draft letter-report, Consultant will review those comments, work to incorporate them, and submit a final letter-report for the project.

Task 5.1c – Foundation Reports for Bridges, Retaining, and Sound Wall

Consultant will prepare a final Structure Foundation Report (FR) with a final Log of Test Boring plan sheet(s) for the grade separation bridge for the project in general conformance with Caltrans Foundation Reports for Bridges, Version r1, dated February 2017 using subsurface data, laboratory test results and findings from our additional or updated geotechnical analyses. Consultant will provide a draft FR for internal review by the project team. After receiving comments from the project team on the draft FR, Consultant will review those comments, work to incorporate them, and submit a final FR for the bridge.

Consultant will prepare final Structure Foundation Reports (FRs) with a final Log of Test Boring plan sheet(s) for the proposed earth retaining structures. Consultant understand that five separate retaining walls are proposed and expect that separate, standalone reports for the retaining walls will be prepared for the project in general conformance with Caltrans Foundation Reports for Earth Retaining Structures (ERS), dated June. 2017. The FRs will be prepared using subsurface data, laboratory test results and findings from our additional or updated geotechnical analyses. Consultant will provide draft FRs for internal review by the project team. After receiving comments from the project team on the draft FRs, Consultant will review those comments, work to incorporate them, and submit a final FRs for the retaining structures.

Task 5.1d – Materials Report

Consultant will prepare a Materials Report (MR) for the project for the project in general conformance with the requirements in Chapter 100 of the Caltrans Highway Design Manual. Consultant will provide a draft MR for internal review by the project team. After receiving comments from the project team on the draft MR, Consultant will review those comments, work to incorporate them, and submit a final MR for the project.

Solicitation # PW18-47
City Project 133101

Task 5.1e – Final Geotechnical Investigation Report

Consultant will compile the data acquired from the subsurface exploration and geotechnical laboratory testing work completed for the Preliminary Foundation Report and work performed for the PA&ED design effort. Consultant will finalize the geotechnical design parameters for use in subsequent evaluations. Consultant will perform geotechnical analyses for the design-level foundation systems for the proposed bridge and retaining structures. Consultant analyses or evaluations updated from the PA&ED phase of work will consist of the following:

- Evaluation of seismic hazards consisting of fault rupture hazards, strong ground shaking and development of a design ARS in accordance with Caltrans guidance, liquefaction and related ground settlement, and lateral spreading;
- Analysis of axial capacity for proposed deep foundation elements, incorporating potential seismic hazards if applicable;
- Lateral capacity evaluation of pile foundations for free-head and fixed-head conditions based on p-y analysis;
- Evaluation of pile spacing and group reduction factors for vertical and lateral loads;
- Analysis of settlement of deep foundation elements, incorporating potential seismic hazards if applicable;
- Lateral earth pressures and passive pressure resistance for non-standard retaining structures;
- Lateral earth pressures for bridge abutment design;
- Settlement evaluation of retaining structures, embankment fills and approximate waiting periods;
- Global stability evaluations for embankment fill slopes and retaining walls;
- Evaluation of soil corrosion potential in accordance with Caltrans guidelines; and
- Evaluation of pavement structural sections for the proposed roadways.

Task 5.1f – Additional Testing for Hazardous Materials

Consultant will perform two additional field sampling days and laboratory testing, as well as data evaluation and reporting to this proposal to address the additional sampling and testing tasks requested in the May 8, 2018 letter from Caltrans. Consultant will perform these additional hazardous materials assessment-services in support of continuing evaluation of the environmental conditions within and adjacent to the Fifth Street Caltrans right of way as part of the proposed PS&E Phase of work.

Task 5.1g – Extended Hazardous Materials Testing (For Potential Second Stage Testing)

Not Included.

Task 6 – Permitting

Task 6.1 – Permit Applications

Consultant will be responsible for preparing all encroachment permit applications for work outside the City right-of-way. This includes the County and Caltrans.

Task 6.2 – Fact Sheets

Not Included.

Task 7 – Bid and Construction Support

Not Included.

**Solicitation # PW18-47
City Project 133101**

Task 7.1 – Pre-Construction Meeting

Not Included.

Task 7.2 – Partnering Workshop

Not Included.

Task 7.3 – Shop Drawing and Submittal Review

Not Included.

Task 7.4 – Additional drawings at City Request

Not Included.

Task 7.5 – Site Visits/Construction Meetings

Not Included.

Task 7.6 – Respond to Inquiries/ RFIs

Not Included.

Task 7.7 – Change Order Preparation and Review, CRIP Reviews

Not Included.

Task 7.8 – Develop As-builts and Final Record Drawing Plans

Not Included.

Task 7.9 – Deliver Project Files

Not Included.

Task 7.10 – Post Audits

Not Included.

Task 7.11 – CPUC Section 190 Reimbursement to City; & file Form G

Not Included.

Task 7.12 – Railroad 5% Mandatory Contribution Payment(s) to City

Not Included.

END OF SCOPE OF WORK

EXHIBIT B
SCHEDULE OF SERVICES

Solicitation # PW18-47
City Project 133101

PROJECT SCHEDULE

Activity	Proposed Date
A. Begin Work	July 2018
B. Draft PS&E	
B.1 Submit Unchecked Details (65%) PS&E	February 2019
B.2 Submit Initial (95%) PS&E	June 2019
C. Submit Final PS&E (100%)	November 2019
D. Ready to List	December 2019
E. Advertise and Award	March 2020
G. Begin Construction	March 2020
H. Completion of Construction	March 2022
I. Project Close Out	April 2022

END OF SCHEDULE OF SERVICES

Agreement No. A-8094

DPA rates, Consultant is responsible for the cost difference, and any overpayments inadvertently paid by City shall be reimbursed to City by Consultant on demand within thirty (30) days of such invoice.

EXHIBIT INS-A

INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

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

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

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

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

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

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

City of Oxnard
Insurance Compliance
Reference No. A-8094
P.O. Box 100085 - OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

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

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

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

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council,

Agreement No. A-8094

officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

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

9/18

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER B

COVERAGES

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

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

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER****CITY OF OXNARD****Attn: Insurance Compliance****Reference No. A-8094****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007****CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

[illegible]

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
Telephone:		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
NAMED INSURED		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE		OTHER PROVISIONS	
☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER			
LIMIT OF LIABILITY		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____	
\$ _____ per accident, for bodily injury and property damage.			
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.			
2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.			
3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.			
4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.			
5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.			
6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).			
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No. A-8094 P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____	

EXHIBIT D

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant and its subconsultants and subcontractors will not discriminate, harass or allow harassment against any employee or applicant for employment because of race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Consultant will take affirmative action to ensure that employees are treated during employment without regard to their race, color, sex, sexual orientation, religion or religious creed, ancestry or national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including but not limited to cancer), age, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; evaluation; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and general treatment. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by State setting forth the provisions of this Fair Employment section.
2. Consultant, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq. and 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapters 5 of Divisions 4 and 4.1 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and each of its subconsultants and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other agreements, as appropriate.
3. Consultant shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.
4. Consultant will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.
5. Remedies for Willful Violation:
 - (a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.
 - (b) For willful violation of this Fair Employment Provision, State shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by State in securing the goods or services thereunder shall be borne and paid for by Consultant and by the surety under the performance bond, if any, and State may deduct from any moneys due or thereafter may become due to Consultant, the difference between the price named in the Agreement and the actual cost thereof to State to cure Consultant's breach of this Agreement.

EXHIBIT E

NONDISCRIMINATION ASSURANCES

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

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

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

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

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

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

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

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

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

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

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

Appendix C;

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

Appendix D;

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

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

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

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

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

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

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

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

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

APPENDIX A TO EXHIBIT E

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

- (1) **Compliance with Regulations:** Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.
- (2) **Nondiscrimination:** Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Sub-agreements, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to Consultant's books, records, accounts, other sources of information, and its facilities as may be determined by State or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to State or the FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, State shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any sub-agreement or procurement as State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request State enter into such litigation to protect the interests of State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO EXHIBIT E

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

(GRANTING CLAUSE)

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

(HABENDUM CLAUSE)

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

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

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

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

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

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

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

APPENDIX C TO EXHIBIT E

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

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

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

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

(Include in deeds)*

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

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

APPENDIX D TO EXHIBIT E

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

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

- (1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;
- (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and
- (3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

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

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

{Include in deeds)*

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

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

EXHIBIT F

FEDERAL LOBBYING ACTIVITIES CERTIFICATION

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

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

b. If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Agreement, grant, local, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, United States Code. Any party who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Consultant: WKE, Inc.

Name: <u>CARLOS CARDONA</u>	Title: <u>SENIOR VICE PRESIDENT</u>
Signature: <u>[Signature]</u>	Date: <u>9/6/18</u>
Name: <u>Wai Koo</u>	Title: <u>President</u>
Signature: <u>[Signature]</u>	Date: <u>9/6/2018</u>

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This First Amendment ("First Amendment") to the Professional Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 4th day of June, 2019, by and between the City of Oxnard, a municipal corporation ("City"), and WKE, Inc. ("Consultant"). This First Amendment amends the Agreement entered into on July 24, 2018, by City and Consultant.

City and Consultant agree as follows:

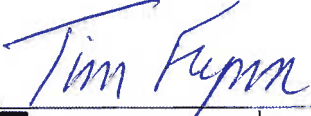
1. In Section 1 of the Agreement, Exhibit A is amended to include Exhibit A-1; attached hereto and incorporated herein.
2. In Section 14(a) of the Agreement, the figure "\$5,362,125.51" is deleted and hereby amended to "\$5,852,200.28."
3. In Section 14(b) of the Agreement, Exhibit C is amended to include Exhibit C-1; attached hereto and incorporated herein..
4. As so amended, the Agreement remains in full force and effect.

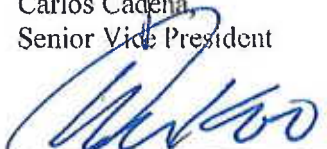
[Signatures on next page]

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

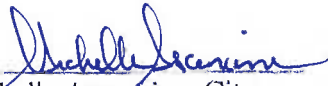
CITY OF OXNARD

WKE, INC.

 6/4/19
☒ Tim Flynn, Mayor¹ Date
☐ Alexander Nguyen, City Manager
☐ Lisa Boerner, Purchasing Manager

 5/9/19
Carlos Cadena, Senior Vice President Date
 5/9/19
Wei Koo, President Date

ATTEST:

 6/4/19
Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

 5/8/19
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.

EXHIBIT A-1

**SCOPE OF SERVICES
AMENDMENT 1
Contract No. A-8094**

MILESTONE 1 – HAZARDOUS WASTE/MATERIALS INVESTIGATIONS

Properties located south of 5th Avenue/Route 34 (and the Union Pacific Rail Road Tracks) may not be accessible until a later date due to ongoing negotiations with various property owners. As such, at the recommendation of WKE, the investigation will be conducted in at least three phases due to potential delayed access to properties:

Phase 1: North of the Union Pacific Rail Road (UPRR) Tracks/Route 34

Phase 2: East of Rice Avenue and south of the UPRR Tracks/Route 34

Phase 3: West of Rice Avenue and south of the UPRR Tracks/5th Street

Pre-Field Activities

The following pre-field activities will be completed by Group Delta to facilitate the investigation:

- Prior to start of the project we will prepare a site-specific Site Investigation Work Plan including a Health and Safety Plan (HASP) for the project. The work plan will address procedures of sampling and laboratory analysis. The plan will also include guidelines for the use of personal protective equipment and safe sampling procedures. The work plan will be submitted to, and approved by, Caltrans prior to start of the field work. The estimated fee is based upon the January 2019 Work Plan currently undergoing Caltrans review.
- Group Delta will prepare up to 5 reduced work plans to facilitate acquisition of specific parcels.
- Group Delta will acquire boring permits from the City of Oxnard and the County of Ventura.
- Group Delta will acquire an Encroachment Permit from Caltrans for borings on the shoulder of SR-34 and an Encroachment Permit from the City of Oxnard for borings associated with Bent 3. This includes development of site-specific traffic control plans.
- Group Delta will mark exploration locations at the site and notify Underground Service Alert (USA) to identify public utilities in the area. Locations will be surveyed in accordance with Caltrans requirements.
- Group Delta will also perform a geophysical to identify potential subsurface utilities or obstructions at each boring location.
- Group Delta will coordinate with the appropriate boring permit and encroachment permit inspectors, as necessary. We assume that limited signage is required at two locations along the shoulder of SR-34 and full traffic control is needed for the two borings at Bent 3.

Field Activities

Laboratory analysis will be performed on selected samples collected during the field program to generally characterize the soil and groundwater within the regions depicted on Figure 1. Samples will be collected using a hand auger and direct-push drill rig. The sampling and analyses program will be as follows:

1. Shallow soil borings will be advanced to approximately 5 feet below ground surface (bgs) with samples collected at near surface (0-6 inches), 1 ft, 3 ft, and 5 ft bgs.
2. Deeper soil borings will be advanced to approximately 18-20 ft bgs with samples collected at near surface, 1 ft, 3 ft, 5 ft and 10 ft bgs as well as at the approximate soil/groundwater interface up to 20 ft bgs.
3. Ten borings placed at the locations of the abutments/bents will be advanced to depths of up to 46 ft bgs.
4. Groundwater samples will be collected from selected boring locations specified in the work plan.
5. Extensive NPDES groundwater sampling will be conducted at 5 locations.
6. All samples will be screened using analyzers specified by Caltrans including a photoionization detector (PID), methane meter, and a hydrogen sulfide meter.
7. Detailed boring logs will be created for each boring.

Laboratory Analysis

Soil and groundwater samples will undergo some or all of the following analyses in accordance with Caltrans requirements as outlined in the January 2019 Work Plan:

- Total Petroleum Hydrocarbons (TPH) in the gasoline range (TPH-g): EPA Test Method 8015
- TPH in diesel and oil ranges (TPH-d/mo): EPA Test Method 8015
- Metals: EPA Test Method 6010B/7471
- Organochlorine Pesticides (OCPs): EPA Method 8081A or 8081B
- Volatile Organic Compounds (VOCs): EPA Method 6010B
- Semi-Volatile Organic Compounds (SVOCs): EPA Method 8270C
- pH: EPA Method 9045C
- Nitrate: EPA Method 300.0
- Asbestos: CARB 435

Select additional samples collected near transformers or other areas of concern will be analyzed for polychlorinated biphenyls (PCBs) by EPA Method 8082, and/or other constituents, as necessary.

In addition, samples collected from 5 locations will undergo the extensive suite of analytical testing required by the Los Angeles Regional Water Quality Control Board (LARWQCB) for obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for construction dewatering discharges.

Reporting

After the data has been gathered, it will be evaluated for technical accuracy and uncertainty (data validation). Group Delta will perform a statistical analysis of the lead analytical results from samples along public ROW using the 95% upper confidence limit (UCL) on the mean by using the EPA's Pro-UCL computer program.

The soil will be classified in accordance with the Caltrans soil classification system based upon the results of the analysis. The report will make recommendations for safe handling of fill and native soils as well as groundwater that may be encountered during the project. The report will include a site plans showing laboratory data, field bore logs, and tabulated analytical data.

Scope of Work for Hazardous Materials Surveys

Pre-Field Activities

The following pre-field activities will be completed by Group Delta to facilitate the investigation:

- Prior to start of the project we will prepare a site-specific Hazardous Materials Investigation Work Plan. The work plan will address procedures of sampling and laboratory analysis. The work plan will be submitted to, and approved by, Caltrans prior to start of the field work.
- Group Delta will manage the preparation of site-specific traffic control plans to facilitate encroachment permitting.
- Group Delta will acquire Encroachment Permits from the City of Oxnard, Ventura County, and Caltrans for sampling yellow striping in public ROW.
- Group Delta will coordinate with the appropriate encroachment permit inspectors, as necessary.

Field Activities

The proposed improvements may impact above-ground structures on three properties. It is possible that these structures may contain ACM and LBP. Each location will require an investigation for hazardous materials. The locations include:

- Parcel No. 2180011475 – Hailwood, Inc.
- Parcel No. 2180011435 – United Water
- Parcel No. 2170020125 – E & H Land Company, LLC

Group Delta proposes to utilize our California Division of Occupational Safety and Health Administration (Cal-OSHA) Certified Asbestos Consultant (CAC) or Certified Site Surveillance Technician (CSST) to conduct a site reconnaissance to identify the locations of potential ACMs and our California Department of Public Health (CDPH) certified inspector/assessor to conduct a site reconnaissance to identify the locations of potential LBP and collect samples. Bulk samples of suspect accessible construction materials will be collected and submitted to an independent laboratory for analysis. Group Delta proposes to use a non-destructive x-ray fluorescence (XRF) device for paint sampling.

The Project will also require the removal of PTS along the Project alignment. Historically, lead and chromium have been used in yellow PTS at high enough concentrations to necessitate special management during removal and disposal as hazardous waste. Yellow PTS is present on SR-34, 5th Street, and Rice Avenue (south of SR-34) within the Project area.

Group Delta proposes to test the yellow striping that will potentially be disturbed by the Project for chromium and lead content. The analytical results will indicate the appropriate handling and disposal requirements for the striping waste materials removal. We assume that we will perform testing at two locations for each of the three roadways identified above. Group Delta will collect up to six striping samples for the Project.

Reporting

We will prepare a Hazardous Materials Survey report summarizing the findings of the ACM and LBP investigation. We will also prepare a Striping Investigation report summarizing the findings of the PTS investigation. The reports will be submitted to Caltrans for review and approval.

MILESTONE 2 – ENVIRONMENTAL REVALIDATION

WKE will provide design modifications to mitigate farmland and maintain the impacts within the footprint of the approved environmental document which eliminates the need to recirculate the environmental document for public review. GPA will provide the following services:

Task 1: Re-validation Form for SCE Transmission Line

GPA understands that a NEPA/CEQA re-validation is needed for the relocation of a 66-kV transmission line owned by SCE and will support SCE's compliance with CPUC General Order 131-D. Based on the 65 percent design, GPA understands that the transmission line will be relocated within the project area evaluated in the EIR/EA. It will also be located within the horizontal APE for cultural resources and outside of two known archaeological sites evaluated in the EIR/EA and during National Historic Preservation Act (NHPA) Section 106 consultation. However, there is the potential that some of the poles may extend deeper than the vertical APE evaluated in the EIR/EA.

GPA will support Caltrans to complete and approve a NEPA/CEQA Re-validation Form as described in the original SOW and Fee. GPA anticipates that Caltrans will require a technical specialist to review each of the technical studies completed for this project and draft a memorandum verifying the adequacy of each study as part of the re-validation. Caltrans will also require revised records searches, including searches related to biological and cultural resources, as part of the re-validation process. Finally, GPA assumes that Caltrans will determine that, with attachment of the supplemental memos prepared for the technical reports to the NEPA/CEQA Re-validation Form, the original NEPA document will remain valid, and additional public review will not be warranted.

GPA will prepare a CEQA Addendum to be included on the Continuation Sheets of the NEPA/CEQA Re-validation Form prepared for the project. GPA will provide the signed Caltrans Re-Validation Form to SCE for use in obtaining authorization under CPUC General Order 131-D. SCE will prepare all materials related to CPUC General Order 131-D.

Deliverables: One electronic copy and up to two hard copies of the NEPA/CEQA Re-validation Form.

Task 2: Re-Validation Form for 95 Percent Project Design

GPA will support Caltrans to complete and approve a NEPA/CEQA Re-validation Form needed to address project revisions between the PA/ED and 95 percent design which include: 1) relocation and/or extension of project features (e.g., utilities, street lighting, etc.) outside of the approved Area of Potential Effects (APE); 2) increases in the depths of over excavation in several areas; 3) an increase in the amount of ROW take and temporary construction easements (TCEs) – both on parcels previously identified in the EIR/EA and parcels not previously identified in the EIR/EA; and 4) an increase in the amount of farmland converted to non-farmland uses.

According to the Caltrans Standard Environmental Reference (Caltrans SER), a subsequent or supplemental EIR is not required, unless "substantial changes" in the project or its circumstances will require major revisions to the EIR. At this point in time it is uncertain if the additional farmland impacts would be considered "substantially more severe." Caltrans indicated (via email on April 17, 2019) that the project design team (PDT) must come to an agreement on this issue. In addition, Ventura County (County) staff will be consulted because the County's thresholds for farmland were used in evaluating farmland impacts in the EIR.

Given this uncertainty, GPA assumes that a stand-alone CEQA Addendum will be the appropriate level of documentation required to support the CEQA re-validation and that a Subsequent EIR

would not be required. GPA anticipates that Caltrans will require several updated technical studies as part of the re-validation. These are described under Tasks 3 through 6, below. For the remaining studies, a technical specialist will review each study and draft a memorandum verifying the adequacy of each study as part of the re-validation. GPA assumes that with attachment of the supplemental memos prepared for the technical reports to the NEPA/CEQA Re-validation Form, the original NEPA document will remain valid, and additional public review will not be warranted.

Deliverables: Three versions (Administrative Draft, Draft, and Final) of the CEQA Addendum. One electronic copy and up to two hard copies of the NEPA/CEQA Re-validation Form.

Task 3: Supplemental Cultural Resource Studies

GPA understands that the technical studies prepared in compliance with NHPA Section 106 during PA/ED will need to be updated to address project design changes, including expansion of the APE. The updated cultural resource studies and reports will follow the requirements set forth in the Caltrans SER.

In addition, GPA understands based on the 65 percent design that the project may require excavation to a depth greater than 2.5 feet within the ESA area located north of State Route 34 and east of Rice Avenue. Caltrans has indicated (via email communication on April 17, 2019) that, as long as an archaeologist and Native American monitors are present for all ground disturbing activities within the ESA, this change would not result in the need to recirculate the EIR/EA or re-initiate NHPA Section 106 consultation.

Supplemental APE Map

As a sub-consultant to GPA, Duke Cultural Resources Management (DUKE CRM) will prepare a supplemental APE that depicts the new work areas and includes all revisions to the project based on the 95 percent design.

Deliverables: Four electronic versions (Draft for GPA review, Draft for City/Engineer, Draft for Caltrans, and Final) of the Supplemental APE Map.

Supplemental Archaeological Survey Report

Following approval of the supplemental APE, DUKE CRM will conduct an updated records search and field survey of the supplemental APE. Following completion of the field survey, DUKE CRM will prepare a Supplemental ASR that describes the changes to the project and includes a summary of impacts associated with the project.

Deliverables: Four versions (Draft for GPA, Draft for City/Engineer, Draft for Caltrans, and Final) of the Supplemental ASR. One electronic copy will be provided for the Draft and one electronic copy and up to two hard copies will be provided for the Final Supplemental ASR.

Supplemental Historical Property Survey Report

DUKE CRM will prepare a Supplemental HPSR that describes changes to the project between the PAED and 95 percent design, and summarizes impacts associated with the project.

Deliverables: Four versions (Draft for GPA, Draft for City/Engineer, Draft for Caltrans, and Final) of the Supplemental HPSR. One electronic copy will be provided for the Draft and one electronic copy and up to two hard copies will be provided for the Final Supplemental HPSR.

Native American Consultation

Duke CRM will contact the Native American Heritage Commission (NAHC) for an updated Sacred Lands File search and contact information for Tribes. DUKE CRM will coordinate with Caltrans and the City to update Tribes regarding the project revisions and expanded project area and provide them with supplemental reports as needed.

Deliverables: Provide prior consulting Tribes with proposed project revisions, expanded project area, and supplemental reports. Tribes will be contacted by letter sent by United States (US) Certified Mail and up to two follow-up calls/emails will be made to solicit a response from each Tribe.

Meetings and Coordination

Based on reviews of the draft 65 percent design package, DUKE CRM anticipates extensive coordination between WKE, SCE, Caltrans, and GPA in order to capture all design revisions. This task includes emails, phone calls, and conference calls that will be required to complete the supplemental Section 106 documentation; this task does not include any in-person meetings.

Task 4: Supplemental Initial Site Assessment

GPA understands that a Supplemental ISA is required to address project design revisions and expansion of the project area between PA/ED and the 95 percent design. As a sub-consultant to GPA, Cornerstone Technologies, Inc. (Cornerstone), will prepare a Supplemental ISA that depicts the new project area and includes all revisions to the project based on 95 percent design. Cornerstone will complete a new Environmental Database Radius (EDR) report for the updated project area and will assess the additional project areas and ROWs identified in the EDR report. The Supplemental ISA report will follow the requirements set forth in the Caltrans SER and in accordance with all standards and practices set forth in 40 Code of Federal Regulations (CFR) 312 and American Society for Testing and Materials (ASTM) 1527-13.

Deliverables: Four versions (Draft for GPA, Draft for City/Engineer, Draft for Caltrans, and Final) of the Supplemental ISA. One electronic copy will be provided for the Draft and one electronic copy and up to two hard copies will be provided for the Final Supplemental ISA.

Task 5: Supplemental Community Impact Assessment Memo

During PA/ED a CIA was completed for the project to address impacts to land use (including farmlands), public services, and economic/social issues. The CIA evaluated compliance with Title VI of the Civil Rights Act and American Disabilities Act. It also evaluated businesses affected by the project, social impacts, changes in neighborhoods or community cohesion, and community resources (schools, churches, parks and emergency services).

GPA assumes that a Supplemental CIA memo will be required during the re-validation process to address changes in the amount of temporary and permanent real property acquisition required. GPA will prepare a brief (approximately four page) memo that will be attached to the original CIA.

Deliverables: Four versions (Draft for GPA, Draft for City/Engineer, Draft for Caltrans, and Final) of the Supplemental CIA Memo. One electronic copy will be provided for the Draft and one electronic copy and up to two hard copies will be provided for the Final Supplemental CIA Memo.

Task 6: Agricultural Resources

Supplemental Farmland Impacts, AD 1006 Form

The Department of Conservation (DOC) established the Farmland Mapping and Monitoring Program (FMMP) in 1982. The goal of the FMMP is to provide consistent and impartial data to decision makers for use in assessing the present status and planning for the future of California's agricultural land resources. One of the primary responsibilities of the FMMP is to produce Important Farmland Maps and statistical data for California's agricultural resources. Important Farmland Maps identify the location and quality of agricultural land across the state.

An AD 1006 Form was completed during PAED because the project would result in the conversion of farmlands to other uses. Based on the 65 percent design package, GPA understands that the project may require additional conversion of farmland to non-farmland uses. GPA will prepare a Supplemental AD 1006 Form to calculate the new Total Site Assessment value of the farmland, which will be used to support the NEPA Re-validation.

Supplemental Analysis of Farmland per County of Ventura CEQA Thresholds

The EIR for the project evaluated impacts to farmland in accordance with the County of Ventura Environmental Thresholds and Guidelines Manual. The EIR determined that the project would result in a significant and unavoidable impact to farmland due to the conversion of 7.63 acres of Prime Farmland and 17.89 acres of Farmland of Statewide Importance to non-agricultural uses.

Based on the 65 percent design package, GPA understands that the project may require additional conversion of farmland to non-farmland uses. GPA will prepare a supplemental analysis of farmlands in accordance with the County of Ventura Environmental Thresholds and Guidelines Manual. The results of this supplemental analysis will be summarized in a brief (approximately four page) memo.

Deliverables: Four versions (Draft for GPA, Draft for City/Engineer, Draft for Caltrans, and Final) of the AD 1006 Form and Supplemental Farmlands Impact Memo. One electronic copy will be provided for the Draft and one electronic copy and up to two hard copies will be provided for the AD 1006 Form and Supplemental Farmlands Impact Memo.

Task 7: Project Management & Meetings

Throughout the environmental process, GPA will maintain a clear line of communication with the project team and will conduct regular status checks to ensure all tasks are on schedule and within budget. The GPA project manager will attend monthly PDT meetings via teleconference (2 hours each); monthly project coordination meetings with WKE, Caltrans, County/City, and SCE (2 hours each); and four in-person meetings (6 hours each). If additional in-person meetings or teleconference are required, an additional SOW and fee will be provided to support this effort.

Task 8: Quality Assurance/Quality Control

In order to maintain efficient and high-quality environmental documentation, GPA will perform thorough and accurate technical reviews of all deliverables prior to submittal to the City and/or Caltrans. Staff understanding and proficiency of NEPA/CEQA requirements, as well as familiarity with the Caltrans Annotated Outlines, will ensure minimal comments are received on all documents submitted.

Deliverables: Document Reviews

Assumptions

This scope has been prepared based on the following assumptions:

General

- Additional budget will be warranted if changes to the project are made after work is initiated.
- GPA will not be responsible for obtaining any permits required for the project.
- GPA will not be required to attend public outreach meetings.

Task 1: Re-validation Form for SCE Transmission Line

- SCE will provide a project description and design plans for the 66-kV transmission line relocation prior to initiating the re-validation forms and supplemental technical studies. The project description will include sufficient detail to prepare the Re-validation Form and supplemental technical studies.
- The SCE transmission line relocation project will be within the current EIR/EA project area; within the horizontal APE for cultural resources; and outside the Environmentally Sensitive Areas (ESAs) identified in the ESA Action Plan prepared by DUKE CRM.
- No major revisions to the project will be made which would require major revisions to existing technical studies or the environmental document, or which would require public circulation of any environmental documentation. No supplemental technical studies will be prepared to support the SCE transmission line revalidation, except for the Supplemental ISA.
- A CEQA Addendum will be prepared and included on the Continuation Sheets of the NEPA/CEQA Re-validation Form prepared for the project, and that a stand-alone CEQA Addendum would not be required for attachment to the NEPA/CEQA Re-validation Form.
- Additional public review of the CEQA/NEPA document would not be required pursuant to 23 CFR 771.111(h)(3).
- SCE will prepare all materials related to CPUC General Order 131-D.

Task 2: Re-Validation Form for 95 Percent Project Design

- A stand-alone CEQA/NEPA Addendum will be the appropriate level of environmental documentation required to support the Re-validation. If Caltrans determines that a Subsequent EIR and/or Supplemental EA are required, GPA will provide additional SOW and fee to complete this task.
- A project description and 95 percent design plans will be provided that include sufficient detail to prepare the Re-validation Form, CEQA Addendum, and Supplemental Technical Studies/Memos.

Task 3: Supplemental Cultural Resource Studies

- Organized and labelled GIS layers will be provided by the Engineer to support development of the APE. If subsequent changes to project design features are made or the information is not labeled and organized additional budget will be warranted.
- No additional sites will be discovered, no additional recordation will be necessary, and no investigative surveys will be required. If sites are discovered additional budget will be necessary for recordation and additional tasks.
- If more than the prior consulting Tribes is required, additional budget will be necessary.
- A Supplemental ESA Action Plan will not be required as part of this SOW.
- Consultation with SHPO will not be required.
- If any of the conditions or costs listed above are exceeded a contract amendment will be necessary. If Caltrans requires additional efforts or additional research not conducted in the approved documents a contract amendment will be necessary.
- Archaeological and/or Native American monitoring is not included as part of this SOW. If during the re-validation process additional monitoring of the ESA is required beyond what is included in the original contract SOW and fee then a contact modification would be required. The current contract includes 72 hours for one archaeological monitor to conduct weekly monitoring and 32 hours total for one archaeological monitor and one Native American Monitor to install/disassemble the ESA fencing.

Task 4: Supplemental Initial Site Assessment

- A Site Investigation (SI) is not included in the SOW. If an SI is needed, an additional SOW and budget will be provided to support this effort.

Task 5: Supplemental Community Impact Assessment Memo and Task 6: Agricultural Resources

- Updated estimates of areas of permanent ROW acquisition and temporary impacts from TCEs by parcel will be provided to GPA for use in completing the supplemental CIA memo and supplemental agricultural resources/farmland analysis.

Task 7: Project Management & Meetings

- If the project schedule exceeds the anticipated 12-month project duration, GPA will request additional fee for project management activities (monthly progress reports, schedule updates, and project communication/coordination).

MILESTONE 3 – SHELL OIL WELLS AND PIPELINES ABANDONMENT

Padre will assist the City of Oxnard and WKE with the proper abandonment of two oil wells located within the area of Rice Avenue and 5th Street in Oxnard as a portion of the planned Rice Avenue / UPRR Grade Separation project. The abandoned oil wells are owned by Shell and it is our understanding that the re-abandonment responsibilities are retained by Shell. There are some pipelines associated with the abandoned wells in the area of the project that are located within an easement that in approximately 1956 were constructed by Standard Oil. The pipelines reportedly include a 4-inch gas line, 4-inch oil line, and two (6-inch and 4-inch) waste water lines.

Padre will assist the City of Oxnard in looking for the appropriate contact at Shell to discuss the removal of these lines in preparation of the planned road improvement project.

EXHIBIT C-1

SUMMARY

CONTRACT PRICING PROPOSAL			Page 1	
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks			of 2	
Name of Proposer WKE, Inc.			DIVISIONS/LOCATIONS Santa Ana, CA	
Home Office Address 1851 E. First Street, Suite 1400, Santa Ana, CA 92705			CONTRACT NO. RFP PW18-47	
Services to be Performed 65% to 100% Design - Rice Avenue Grade Separation			TOTAL AMOUNT OF PROPOSAL \$490,074.77	
DETAILED DESCRIPTION OF COST ELEMENTS				
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost
Project Manager	18	\$114.71	\$2,064.78	
Discipline Lead	46	\$98.41	\$4,526.86	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
	0	\$0.00	\$0	
Labor Cost	64		\$6,591.64	
Escalation	3%		132.49	
Total Direct Labor				\$6,724.13
2. Labor Overhead Rate	Rate			
	127.95%			
				\$8,603.53
3. Travel*			Est. Cost (\$)	
a. Transportation			\$0	
b. Per Diem or Subsistence			\$0	
		Total Travel		\$0
4. Subcontractors/Suppliers**			Est. Cost (\$)	
GPA			\$81,671.11	
Group Delta			\$386,558.37	
Padre			\$4,984.86	
		Total Subcontractors/Suppliers		\$473,214.35
5. Other Direct Costs*				\$0
6. General & Admin. Expense (of Item No. 4)		0%		
7. Fee		10%		\$1,532.77
TOTAL ESTIMATED COST AND FEE				\$490,074.77

* Itemize items on second page

** Attached pricing forms for all proposed subcontractors

SUMMARY BY FIRM

TASK	DESCRIPTION	WKE	GPA	Group Delta	Padre	TOTAL HOURS	COST
MILESTONE 1 - HAZARDOUS WASTE/MATERIALS INVESTIGATIONS							
1.1	Hazardous Waste Suppliers/ODCs	0	\$0	0	\$0	1095	\$113,917
							\$272,641
	SUBTOTAL MILESTONE 1 - HAZARDOUS WASTE/MATERIALS INVESTIGATIONS	0	\$0	0	\$0	0	\$386,558.37
MILESTONE 2 - ENVIRONMENTAL REVALIDATION							
2.1	Re-validation Form and Technical Memos for SCE Transmission Line	12	\$3,187	263	\$27,027	0	\$0
2.2	Re-validation Form for 95 Percent Project Design	12	\$3,187	96	\$8,809	0	\$0
2.3	Supplemental Cultural Resource Studies	4	\$1,007	0	\$0	0	\$0
2.4	Supplemental Initial Site Assessment	4	\$1,007	0	\$0	0	\$0
2.5	Supplemental Community Impact Assessment Memo	4	\$1,007	32	\$2,995	0	\$0
2.6	Agricultural Resources	4	\$1,007	32	\$2,995	0	\$0
2.7	Project Management and Meetings	16	\$4,361	120	\$15,945	0	\$0
2.8	Quality Assurance/Quality Control	8	\$2,097	20	\$2,732	0	\$0
	ODCs				\$21,167		\$21,167
	SUBTOTAL MILESTONE 2 - ENVIRONMENTAL REVALIDATION	64	\$16,860	563	\$81,671	0	\$0
MILESTONE 3 - SHELL OIL WELLS AND PIPELINES ABANDONMENT							
3.1	Shell Oil Wells and Pipelines Abandonment	0	\$0	0	\$0	0	\$0
	SUBTOTAL MILESTONE 3 - SHELL OIL WELLS AND PIPELINES ABANDONMENT	0	\$0	0	\$0	0	\$0
	SUBTOTAL ALL MILESTONES	64	\$16,860	563	\$81,671	0	\$386,558
							\$490,074.77

[illegible]

[illegible]

TASK	DESCRIPTION	FIRM	Principal Environmental Planner	Senior Environmental Planner	Senior Environmental Planner	Environmental Planner	Environmental Planner	Senior Associate Biologist	Senior Biologist	Associate Biologist	Associate Biologist	Senior GIS Analyst	TOTAL HOURS	Cost
Project Billing Rate (Burdened) for 1/1/18 to 12/13/19 Project Average														
MILESTONE 1 - HAZARDOUS WASTE/MATERIALS INVESTIGATIONS														
1.2	Hazardous Materials												0	\$0.00
	SUBTOTAL MILESTONE 1 - HAZARDOUS WASTE/MATERIALS INVESTIGATIONS		0	0	0	0	0	0	0	0	0	0	0	\$0.00
MILESTONE 2 - ENVIRONMENTAL REVALIDATION														
2.1	Re-validation Form and Technical Memos for SCE Transmission Line												24	\$27,026.69
2.2	Re-validation Form for 95 Percent Project Design			25	62	128	64	12		24		8	96	\$8,809.27
2.3	Supplemental Cultural Resource Studies												0	\$0.00
2.4	Supplemental Initial Site Assessment												0	\$0.00
2.5	Supplemental Community Impact Assessment Memo				4	22		4				6	32	\$2,995.41
2.6	Agricultural Resources				4	22		4				6	32	\$2,995.41
2.7	Project Management and Meetings				120								120	\$15,945.46
2.8	Quality Assurance/Quality Control			20									20	\$2,731.97
	SUBTOTAL MILESTONE 2 - ENVIRONMENTAL REVALIDATION		0	45	202	236		0	0	36		44	563	\$60,504.20
MILESTONE 3 - SHELL OIL WELLS AND PIPELINES ABANDONMENT														
3.1	Shell Oil Wells and Pipelines Abandonment												0	\$0.00
	SUBTOTAL MILESTONE 3 - SHELL OIL WELLS AND PIPELINES ABANDONMENT		0	0	0	0	0	0	0	0	0	0	0	\$0.00
	SUBTOTAL ALL MILESTONES		0	45	202	236		0	0	36		44	563	\$60,504.20
	SUBTOTAL Other Direct Cost													\$636.91
	SUBTOTAL Subconsultants													\$20,530.00
	TOTAL		0	45	202	236		0	0	36		44	563	\$81,671.11

PADRE

TASK	DESCRIPTION	FIRM	Principal Professional	Senior Professional	Project Professional	Drafting	Word Processing									TOTAL HOURS	Cost							
Project Billing Rate (Burdened) for 1/1/18 to 12/13/19 Project Average																								
MILESTONE 1 - HAZARDOUS WASTE/MATERIALS INVESTIGATIONS																								
1.1	Hazardous Waste															0	\$0.00							
SUBTOTAL MILESTONE 1 - HAZARDOUS WASTE/MATERIALS INVESTIGATIONS																	0	0	0	0	0	0	0	\$0.00
MILESTONE 2 - ENVIRONMENTAL REVALIDATION																								
2.1	Re-validation Form and Technical Memos for SCE Transmission Line															0	\$0.00							
2.2	Re-validation Form for 95 Percent Project Design															0	\$0.00							
2.3	Supplemental Cultural Resource Studies															0	\$0.00							
2.4	Supplemental Initial Site Assessment															0	\$0.00							
2.5	Supplemental Community Impact Assessment Memo															0	\$0.00							
2.6	Agricultural Resources															0	\$0.00							
2.7	Project Management and Meetings															0	\$0.00							
2.8	Quality Assurance/Quality Control															0	\$0.00							
SUBTOTAL MILESTONE 2 - ENVIRONMENTAL REVALIDATION																	0	0	0	0	0	0	0	\$0.00
MILESTONE 3 - SHELL OIL WELLS AND PIPELINES ABANDONMENT																								
3.1	Shell Oil Wells and Pipelines Abandonment		8	14	15	6	9									52	\$4,984.86							
SUBTOTAL MILESTONE 3 - SHELL OIL WELLS AND PIPELINES ABANDONMENT																	8	14	15	6	9	0	0	\$4,984.86
SUBTOTAL ALL MILESTONES																	8	14	15	6	9	0	0	\$4,984.86
SUBTOTAL Other Direct Cost																								\$0.00
SUBTOTAL Subconsultants																								\$0.00
TOTAL																	8	14	15	6	9	0	0	\$4,984.86

SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Second Amendment ("Second Amendment") to the Professional Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 21st day of April, 2020, by and between the City of Oxnard, a municipal corporation ("City"), and WKE, Inc. ("Consultant"). This Second Amendment amends the Agreement entered into on July 24, 2018 and by a First Amendment on June 4, 2019, by City and Consultant.

City and Consultant agree as follows:

1. In Section 1 of the Agreement, Exhibits A and A-1 are supplemented by Exhibit A-2, which is attached hereto and incorporated herein by reference.
2. In Section 14(a) of the Agreement, the figure "\$5,852,200.28," is deleted and hereby replaced by the figure, "\$8,909,080.94."
3. In Section 14(b) of the Agreement, Exhibits C and C-1 are supplemented by Exhibit C-2, which is attached hereto and incorporated herein by reference.
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.

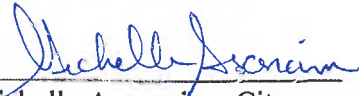
CITY OF OXNARD

WKE, INC.

 4/21/20
☒ Tim Flynn, Mayor¹ Date
☐ Alexander Nguyen, City Manager
☐ Lisa Boerner, Purchasing Manager

 3/4/2020
Wei Koo, President Date
 3/5/2020
Carlos Cadena, Senior Vice President Date

ATTEST:

 4/22/20
Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

 3-3-2020
Stephen M. Fischer, City Attorney (always required) Date

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

² The City requires the following for any contract:

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

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

EXHIBIT A-2

SCOPE OF SERVICES

Agreement scope is to complete Plans, Specifications & Estimates (PS&E) of the new preferred Alternative 3B. Upon completion of the 65% PS&E of Alternative 2A, which was included in the original Agreement and First Amendment, identified in the environmental document, and subsequent review by Caltrans, it was determined that Alternative 3B offers traffic operational benefits at a lower cost and would be a viable alternative with the approval of the design exceptions. Caltrans approved the Supplemental Project Report and Design Standard Decision Document in November 2019.

EXHIBIT C-2 COMPENSATION RATES



January 8, 2020

Ms. Debbie O'Leary
Project Manager
City of Oxnard
305 West Third Street, 3rd Floor
Oxnard, CA 93030
debbie.oleary@oxnard.org

Subject: **Contract Modification to Contract No. A-8094 – Amendment 2
Based on out-of-scope design services for the Final Design for
Alternative 3B for Rice Avenue Grade Separation over Fifth
Street/UPRR**

Dear Ms. O'Leary,

Caltrans, in cooperation with the City of Oxnard (the City), approved the Project Approval/Environmental Document (PA/ED) on May 18, 2018 to advance the Rice Avenue/Fifth Street/UPRR Grade Separation Project to the final design. The Environmental Impact Report/Environmental Assessment (EIR/EA) considered Alternatives 2A and 2B which maintained Rice Avenue along its present alignment. A Finding of No Significant Impact (FONSI) was made and identified Alternative (Alt) 2A (dual connector roads) as the local preferred alternative. Earlier, during the preparation of the project report and the Value Analysis, two additional alternatives were evaluated which realigned Rice Avenue 250' easterly and were identified as Alt 3A (dual connector roads) and Alt 3B (single connector road). Understanding that Rice Avenue is intended to be relinquished to Caltrans in the future to become the northerly extension of US Route 1, the Project Development Team (PDT) was directed to develop alternatives that meet all state highway design standards relative to design speed, roadway curvature and superelevation rates. As a result, both Alternatives 3A and 3B were removed from further consideration since they did not meet this criterion.

Upon completion of the 65% PS&E of Alternative 2A and subsequent review by Caltrans, it was determined that Alternative 3B offers traffic operational benefits at a lower cost and would be a viable alternative with the approval of the design exceptions. Caltrans determined that design exceptions can now be granted relative to design speed, roadway curvature and superelevation rates for Alternatives 3A and 3B. A full comparison of the alternatives has been completed and Caltrans and the City, with concurrence from Ventura County DPW and VCTC, have given direction to the PDT to proceed with the design of Alt 3B.

The final design of the project for Alternative 2A had been progressing to 95% PS&E since August 2019 with a remaining budget of \$2,871,112.12 from the original contract. An additional budget of \$3,056,880.66 is required to complete the design for Alternative 3B.

If you have any questions or require additional information, please contact me at (714) 955-7186.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Carlos Cadena', with a long horizontal line extending to the right.

Carlos Cadena
Executive VP/Project Manager

CONTRACT PRICING PROPOSAL			Page 1	
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks			of 1	
Name of Proposer WKE, Inc.			DIVISIONS/LOCATIONS Santa Ana, CA	
Home Office Address 1851 E. First Street, Suite 1400, Santa Ana, CA 92705			CONTRACT NO. RFP PW18-47	
Services to be Performed PS&E - Rice Avenue Grade Separation (Alternative 3B)			TOTAL AMOUNT OF PROPOSAL \$3,056,880.66	
DETAILED DESCRIPTION OF COST ELEMENTS				
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost
Project Manager	1,030	\$114.71	\$118,151.30	
Discipline Lead	2,038	\$98.41	\$200,559.58	
Senior Task Manager	1,880	\$88.68	\$166,718.40	
Senior Project Engineer 2	3,608	\$88.81	\$320,426.48	
Senior Project Engineer 1	2,818	\$70.63	\$199,035.34	
Project Engineer	4,059	\$48.56	\$197,084.75	
Assistant Engineer	2,994	\$32.97	\$98,722.16	
CADD	1,006	\$37.89	\$38,112.31	
Administrative	388	\$29.16	\$11,314.08	
Labor Cost	19,821		\$1,350,124.40	
Escalation	3%		\$91,131.43	
Total Direct Labor				\$1,441,255.82
2. Labor Overhead Rate	Rate			
	127.95%			
				\$1,844,086.82
3. Travel*			Est. Cost (\$)	
a. Transportation			\$5,260.00	
b. Per Diem or Subsistence			\$0.00	
Total Travel				\$5,260.00
WKE Remaining Balance				(\$1,557,216.76)
4. Subcontractors/Suppliers**	Cost to Complete	Remaining Balance	Additional Balance	
Douglas Engineering	\$10,879.08	\$0.00	\$10,879.08	
EPIC Land Solutions	\$0.00	(\$39,153.27)	(\$39,153.27)	
Fugro Consultants, Inc	\$225,534.87	(\$188,688.06)	\$36,846.81	
GPA Consulting	\$164,089.31	(\$164,089.31)	\$0.00	
Group Delta Consultants	\$399,943.81	(\$255,065.80)	\$144,878.01	
Guida Surveying, Inc	\$240,111.98	(\$23,056.81)	\$217,055.17	
Hamner, Jewell & Associates	\$249,696.72	(\$122,697.39)	\$126,999.33	
Kimley Horn & Associates	\$477,769.24	(\$119,311.61)	\$358,457.63	
Kennedy/Jenks Consultants	\$202,252.85	(\$58,896.65)	\$143,356.20	
LIN Consulting	\$68,490.51	(\$33,987.23)	\$34,503.28	
Padre & Associates	\$0.00	(\$5.00)	(\$5.00)	
PacRim Engineering	\$100,491.77	(\$193,008.68)	(\$92,516.91)	
Tatsumi & Partners	\$137,570.72	(\$115,935.55)	\$21,635.17	
Total Subcontractors/Suppliers (Cost to Complete)			\$2,276,830.87	
Total Subcontractors/Suppliers Remaining Balance			(\$1,313,895.36)	
5. Other Direct Costs*			\$32,025.00	
6. General & Admin. Expense (of Item No. 4)	0%		\$0.00	
7. Fee	10%		\$328,534.26	
TOTAL COST AND FEE TO COMPLETE PROJECT			\$5,927,992.78	
REMAINING BALANCE			(\$2,871,112.12)	
TOTAL ESTIMATED AMENDMENT COST AND FEE			\$3,056,880.66	
* Itemize items on second page				
** Attached pricing forms for all proposed subcontractors				

TEAM BREAKDOWN

TASK	DESCRIPTION		WKE		Douglas	Epic		Fugro		GPA	Group Delta		Guida		HJA		KHA		KJC		LIN		PacRim		Padre		Tatsumi	TOTAL HOURS	COST	
2.1-7	Irrigation Plans	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	296	\$32,504	296	\$32,504
2.1-7a	Irrigation Removals	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	102	\$11,340	102	\$11,340
2.1-7b	Irrigation Plans	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	146	\$15,770	146	\$15,770
2.1-7c	Irrigation Quantities	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	48	\$5,394	48	\$5,394
2.1-8	Bridge Plans (Unchecked Details)	WKE/Tatsumi	1000	\$139,229	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	77	\$9,141	1,077	\$148,371
2.1-8a	Rice Avenue Overcrossing	WKE	870	\$119,986	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	870	\$119,986
2.1-8b	Aesthetics Structures Details	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	77	\$9,141.44	77	\$9,141
2.1-8c	Type Selection Report (Bridges)	WKE	130	\$19,243	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0.00	130	\$19,243
2.1-9	Retaining Wall Plans	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	156	\$23,755	0	\$0	77	\$9,141	233	\$32,896
2.1-9a	Retaining Wall Key Map	WKE	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-9b	Retaining Wall 1	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-9c	Retaining Wall 2	PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-9d	Retaining Wall 3	PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-9e	Retaining Wall 4	WKE/PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-9f	Retaining Wall 5	WKE/PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-9g	Aesthetics Wall Details	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	77	\$9,141.44	77	\$9,141
2.1-9h	Retaining Wall 1 - Alternative 3B	PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	156	\$23,755	0	\$0	0	\$0.00	156	\$23,755
2.1-10	Utility Plans	WKE/KJC	164	\$24,593	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	353	\$62,821	0	\$0	0	\$0	0	\$0	0	-\$5	0	\$0	517	\$87,409
2.1-10a	Utility Sheets	WKE	52	\$7,320	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	52	\$7,320
2.1-10b	Utility Coordination	WKE	52	\$7,320	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	52	\$7,320
2.1-10c	Update Utility Conflict Matrix	WKE	60	\$9,953	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	60	\$9,953
2.1-10d	City Sewer Line	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	89	\$15,913	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	89	\$15,913
2.1-10e	City Water Line	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	177	\$31,395	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	177	\$31,395
2.1-10f	United Water Conservation District Water Line	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	87	\$15,513	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	87	\$15,513
2.1-10g	City 36" Sewer Line South of SR 34 (Optional)	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-10h	Coordination with Shell Oil Company	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
2.1-10i	Well Abandonment Work Plan/Site Health & Safety Plan/Permitting	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$5	0	\$0	0	-\$5
2.1-12	Storm Water Data Report	WKE	45	\$8,088	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	45	\$8,088
2.1-13	Constructability Review	WKE	44	\$7,874	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	44	\$7,874
2.1-14	QA/QC	WKE	1060	\$159,719	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	1,060	\$159,719
2.2	95% PS&E SUBMITTAL	Various	5768	\$270,440	0	\$0	0	\$0	1033	\$0	0	\$0	24	\$2,255	0	\$0	745	\$84,811	448	\$67,420	150	\$4,335	210	-\$86,204	0	\$0	287	-\$53,087	8,665	\$289,969
2.2-1	Update Roadway Plans	WKE/Guida	1114	\$133,956	0	\$0	0	\$0	0	\$0	0	\$0	24	\$2,255	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	1,138	\$136,211
2.2-1a	Update Title Sheet	WKE	45	\$6,744	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	45	\$6,744
2.2-1b	Update Typical Cross Sections	WKE	179	\$25,467	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	179	\$25,467
2.2-1c	Update Key Map & Line Index	WKE	16	\$1,186	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	16	\$1,186
2.2-1d	Update Project Controls	Guida	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	24	\$2,255	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	24	\$2,255
2.2-1e	Update Layout Plans	WKE	156	\$20,187	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	156	\$20,187
2.2-1f	Update Profiles and Superelevation Diagrams	WKE	170	\$22,456	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	170	\$22,456
2.2-1g	Update Construction Details	WKE	280	\$37,157	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	280	\$37,157
2.2-1g.1	Update Removals	WKE	130	\$17,699	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	130	\$17,699
2.2-1g.2	Update Intersections and Curb Ramps	WKE	40	\$4,726	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$4,726
2.2-1g.3	Update Misc Details	WKE	110	\$14,732	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	110	\$14,732
2.2-1h	Update Contour Grading Plans	WKE	168	\$20,151	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	168	\$20,151
2.2-1i	Update Summary of Quantities	WKE	100	\$608	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	100	\$608
2.2-2	Update Drainage Plans	WKE/Tatsumi	940	\$29,368	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	65	-\$12,385.08	1,005	\$16,983
2.2-2b	Update Drainage Plans, Profiles, Details, and Quantities	WKE	760	\$22,418	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	760	\$22,418
2.2-2b.1	Update Drainage Plans	WKE	220	\$7,785	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	220	\$7,785
2.2-2b.2	Update Drainage Profiles	WKE	200	\$6,270	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	200	\$6,270
2.2-2b.3	Update Drainage Details	WKE	140	\$4,692	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	140	\$4,692
2.2-2b.4	Update Drainage Quantities	WKE	120	\$893	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	120	\$893
2.2-2b.5	Update Temporary Drainage Plans, Profiles, Details, and Quantities	WKE	80	\$2,778	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$				

TASK	DESCRIPTION		WKE	Douglas	Epic	Fugro	GPA	Group Delta	Guida	HJA	KHA	KJC	LIN	PacRim	Padre	Tatsumi	TOTAL HOURS	COST
2.2-5	Update Sign Plans	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	147	\$15,435	0	\$0	\$0	\$0	147	\$15,435
2.2-5a	Update Sign Plans	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	89	\$9,768	0	\$0	\$0	\$0	89	\$9,768
2.2-5b	Update Sign Details	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	35	\$3,542	0	\$0	\$0	\$0	35	\$3,542
2.2-5c	Update Sign Quantities	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	23	\$2,125	0	\$0	\$0	\$0	23	\$2,125
2.2-6	Update Electrical Lighting, Signals	KHA/LIN	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	100	\$12,579	0	\$0	\$0	\$0	250	\$16,913
2.2-6a	Update Traffic Signals	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	100	\$12,579	0	\$0	\$0	\$0	100	\$12,579
2.2-6b	Update Modifying Existing Electrical Systems	LIN	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	105	\$2,845	0	\$0	105	\$2,845
2.2-6c	Update Electrical System Details	LIN	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	30	\$1,282	0	\$0	30	\$1,282
2.2-6d	Update Electrical System Quantities	LIN	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	15	\$209	0	\$0	15	\$209
2.2-7	Update Irrigation Plans	Tatsumi	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	122	-\$23,665.72
2.2-7a	Update Irrigation Removals	Tatsumi	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	37	-\$8,279
2.2-7b	Update Irrigation Plans	Tatsumi	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	68	-\$11,550
2.2-7c	Update Irrigation Quantities	Tatsumi	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	17	-\$3,837
2.2-8	Update Bridge Plans	WKE/Tatsumi	1230	\$10,067	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	47	-\$6,615.77
2.2-8a	Rice Avenue Overcrossing	WKE	990	\$7,488	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	990	\$7,488
2.2-8b	Update Aesthetics Structures Details	Tatsumi	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	47	-\$6,616
2.2-8c	Bridge Independent Check	WKE	240	\$2,579	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	240	\$2,579
2.2-9	Update Retaining Wall Plans	Various	0	-\$126,853	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	-\$86,204	0	\$0	53	-\$10,420.26
2.2-9a	Update Retaining Wall Key Map	WKE	0	-\$2,067	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	0	-\$2,067
2.2-9b	Retaining Wall 1	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	-\$54,596	0	0	-\$54,596
2.2-9c	Retaining Wall 2	PacRim	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	0	\$0
2.2-9d	Retaining Wall 3	PacRim	0	-\$38,189	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	0	-\$38,189
2.2-9e	Retaining Wall 4	WKE/PacRim	0	-\$43,299	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	-\$29,693	0	0	-\$72,992
2.2-9f	Retaining Wall 5	WKE/PacRim	0	-\$43,299	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	-\$34,189	0	0	-\$77,488
2.2-9g	Update Aesthetics Wall Details	Tatsumi	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	53	-\$10,420
2.2-9h	Retaining Wall 1 - Alternative 3B	PacRim	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$32,274	0	0	\$32,274
2.2-10	Update Utility Plans	WKE/KJC	480	\$60,726	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	928	\$128,146
2.2-10a	Update Utility Sheets	WKE	130	\$14,483	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	130	\$14,483
2.2-10b	Utility Coordination	WKE	250	\$34,803	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	250	\$34,803
2.2-10c	Update Utility Conflict Matrix	WKE	100	\$11,440	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	100	\$11,440
2.2-10d	City Sewer Line	KJC	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	114	\$17,648
2.2-10e	City Water Line	KJC	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	223	\$35,223
2.2-10f	United Water Conservation District Water Line	KJC	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	111	\$15,973
2.2-10g	City 36" Sewer Line South of SR 34 (Optional)	KJC	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	-\$1,425	0	0	-\$1,425
2.2-11	Construction Schedule	WKE	140	\$1,511	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	140	\$1,511
2.2-12	Utility and ROW Update	WKE	40	\$357	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	40	\$357
2.2-13	Update SWDR	WKE	72	\$518	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	72	\$518
2.2-14	Environmental Commitment Record (ECR)	WKE/GPA	256	\$46,058	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	1,289	\$46,058
2.2-14a	Environmental Commitment Record (ECR)	WKE	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	388	\$0
2.2-14b	Environmental Mitigation	WKE	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	95	\$0
2.2-14c	Environmental Document Re-Validation	WKE/GPA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	550	\$0
2.2-14d	Supplemental Project Report	WKE	256	\$46,058	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	256	\$46,058
2.2-15	Update TMP	KHA	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	59	\$6,474	0	\$0	\$0	\$0	59	\$6,474
2.2-16	CPUC GO 88B application and Section 190 funding request	Douglas	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	0	\$0
2.2-17	Update Drainage Report	WKE	72	\$518	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	72	\$518
2.2-18	Constructability Review	WKE	120	\$7,841	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	120	\$7,841
2.2-19	QA/QC	WKE	1060	\$77,357	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	1,060	\$77,357
2.3	100% PS&E SUBMITTAL	Various	1746	-\$17,899	0	\$0	\$0	\$0	\$0	\$0	424	-\$5,719	195	-\$11,996	90	\$1,675	10	-\$3,003
2.3-1	Final Roadway Plans	WKE/Guida	305	\$108	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	305	\$108
2.3-1a	Final Title Sheet	WKE	8	\$68	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	8	\$68
2.3-1b	Final Typical Cross Sections	WKE	40	\$319	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	40	\$319
2.3-1c	Final Key Map & Line Index	WKE	4	\$35	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	4	\$35
2.3-1d	Final Project Controls	Guida	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	0	\$0
2.3-1e	Final Layout Plans	WKE	42	\$363	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	42	\$363
2.3-1f	Final Profiles and Superelevation Diagrams	WKE	30	\$194	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	30	\$194
2.3-1g	Final Construction Details	WKE	114	-\$1,384	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	114	-\$1,384
2.3-1g.1	Final Removals	WKE	40	\$319	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	40	\$319
2.3-1g.2	Final Intersections and Curb Ramps	WKE	14	-\$2,118	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	14	-\$2,118
2.3-1g.3	Final Misc Details	WKE	60	\$414	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	60	\$414
2.3-1h	Final Contour Grading Plans	WKE	42	\$320	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	42	\$320
2.3-1i	Final Summary of Quantities	WKE	25	\$193	0	\$0	\$0	\$0	\$0	\$0	0	\$0	0	\$0	\$0	\$0	25	\$193

TASK	DESCRIPTION		WKE		Douglas	Epic	Fugro	GPA	Group Delta	Guida	HJA	KHA	KJC	LIN	PacRim	Padre	Tatsumi	TOTAL HOURS	COST			
2.3-2	Final Drainage Plans	WKE/Tatsumi	300	\$2,171	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	36	\$143	336	\$2,314		
2.3-2a	Final Drainage Plans, Profiles, Details, and Quantities	WKE	210	\$1,556	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	210	\$1,556		
2.3-2a.1	Final Drainage Plans	WKE	60	\$442	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	60	\$442		
2.3-2a.2	Final Drainage Profiles	WKE	60	\$405	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	60	\$405		
2.3-2a.3	Final Drainage Details	WKE	40	\$326	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$326		
2.3-2a.4	Final Drainage Quantities	WKE	30	\$230	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	30	\$230		
2.3-2a.5	Final Temporary Drainage Plans, Profiles, Details, and Quantities	WKE	20	\$154	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	20	\$154		
2.3-2b	Final Temporary Water Pollution Control Plans	WKE	90	\$615	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	90	\$615		
2.3-2c	Final Erosion Control Plans	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	36	\$143	36	\$143		
2.3-3	Final Stage Construction and Detours	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	269	-\$6,285	0	\$0	0	\$0	269	-\$6,285		
2.3-3a	Final Stage Construction (Plans, Details, and Quantities)	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	129	-\$469	0	\$0	0	\$0	129	-\$469		
2.3-3a.1	Final Stage Construction CAS and Index	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	12	\$674	0	\$0	0	\$0	12	\$674		
2.3-3a.2	Final Stage Construction Plans	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	70	-\$999	0	\$0	0	\$0	70	-\$999		
2.3-3a.3	Final Stage Construction Details	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	28	-\$208	0	\$0	0	\$0	28	-\$208		
2.3-3a.4	Final Stage Construction Quantity Sheets	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	19	\$64	0	\$0	0	\$0	19	\$64		
2.3-3b	Final Traffic Handling Plan Detour (Plans and Quantities)	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	140	\$487	0	\$0	0	\$0	140	\$487		
2.3-3c	Final Detour Traffic Signal and rail crossing	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$6,303	0	\$0	0	\$0	0	-\$6,303		
2.3-4	Final Pavement Delineation Plans	WKE	61	\$481	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	61	\$481		
2.3-4a	Final Pavement Delineation Plans	WKE	40	\$317	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$317		
2.3-4b	Final Pavement Delineation Details	WKE	9	\$73	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	9	\$73		
2.3-4c	Final Pavement Delineation Quantities	WKE	12	\$91	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	12	\$91		
2.3-5	Final Sign Plans	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	80	\$281	0	\$0	0	\$0	80	\$281		
2.3-5a	Final Sign Plans	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$137	0	\$0	0	\$0	40	\$137		
2.3-5b	Final Sign Details	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	20	\$71	0	\$0	0	\$0	20	\$71		
2.3-5c	Final Sign Quantities	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	20	\$73	0	\$0	0	\$0	20	\$73		
2.3-6	Final Electrical Lighting, Signals	KHA/LIN	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$147	0	\$0	90	\$1,675	0	\$0	130	\$1,822
2.3-6a	Final Traffic Signals	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$147	0	\$0	0	\$0	40	\$147		
2.3-6b	Final Modifying Existing Electrical Systems	LIN	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	59	\$879	0	\$0	59	\$879		
2.3-6c	Final Electrical System Details	LIN	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	20	\$747	0	\$0	20	\$747		
2.3-6d	Final Electrical System Quantities	LIN	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	11	\$49	0	\$0	11	\$49		
2.3-7	Final Irrigation Plans	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	44	\$168	44	\$168		
2.3-7a	Final Irrigation Removals	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	15	\$57	15	\$57		
2.3-7b	Final Irrigation Plans	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	24	\$90	24	\$90		
2.3-7c	Final Irrigation Quantities	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	5	\$21	5	\$21		
2.3-8	Final Bridge Plans	WKE/Tatsumi	308	\$2,150	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	26	\$102	334	\$2,251		
2.3-8a	Rice Avenue Overcrossing	WKE	308	\$2,150	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	308	\$2,150		
2.3-8b	Final Aesthetics Structures Details	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	26	\$102	26	\$102		
2.3-9	Final Retaining Wall Plans	Various	0	-\$36,096	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	10	-\$3,003	0	\$0	22	\$89	32	-\$39,010
2.3-9a	Final Retaining Wall Key Map	WKE	0	-\$687	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$687		
2.3-9b	Retaining Wall 1	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$4,588	0	\$0	0	-\$4,588		
2.3-9c	Retaining Wall 2	PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0		
2.3-9d	Retaining Wall 3	PacRim	0	-\$11,803	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$11,803		
2.3-9e	Retaining Wall 4	WKE/PacRim	0	-\$11,803	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$11,803		
2.3-9f	Retaining Wall 5	WKE/PacRim	0	-\$11,803	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$11,803		
2.3-9g	Final Aesthetics Wall Details	Tatsumi	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	22	\$89	22	\$89		
2.3-9h	Retaining Wall 1 - Alternative 3B	PacRim	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	10	\$1,585	0	\$0	10	\$1,585		
2.3-10	Final Utility Plans	WKE/KJC	80	\$642	0	\$0	0	\$0	0	\$0	0	\$0	195	-\$11,996	0	\$0	0	\$0	275	-\$11,354		
2.3-10a	Final Utility Sheets	WKE	36	\$293	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	36	\$293		
2.3-10b	Utility Coordination	WKE	36	\$293	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	36	\$293		
2.3-10c	Update Utility Conflict Matrix	WKE	8	\$56	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	8	\$56		
2.3-10d	City Sewer Line	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	51	-\$3,214	0	\$0	0	\$0	51	-\$3,214		
2.3-10e	City Water Line	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	98	\$1,874	0	\$0	0	\$0	98	\$1,874		
2.3-10f	United Water Conservation District Water Line	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	46	-\$5,311	0	\$0	0	\$0	46	-\$5,311		
2.3-10g	City 36" Sewer Line South of SR 34 (Optional)	KJC	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	-\$5,345	0	\$0	0	\$0	0	-\$5,345		
2.3-11	Resident Engineer File	WKE	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0		
2.3-12	Final Reports	WKE/KHA	72	\$518	0	\$0	0	\$0	0	\$0	0	\$0	35	\$138	0	\$0	0	\$0	107	\$656		
2.3-12a	Final Drainage Report	WKE	36	\$259	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	36	\$259		
2.3-12b	Final SWDR	WKE	36	\$259	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	36	\$259		
2.3-12c	Final TMP	KHA	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	35	\$138	0	\$0	0	\$0	35	\$138		
2.3-13	Final Construction Schedule	WKE	40	\$507	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	40	\$507		

TASK	DESCRIPTION			WKE		Douglas		Epic		Fugro		GPA		Group Delta		Guida		HJA		KHA		KJC		LIN		PacRim		Padre		Tatsumi	TOTAL HOURS	COST												
2.3-14	QA/QC		WKE	580		\$11,621	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	580	\$11,621												
2.4	Right of Way Documentation and Engineering		Various	140		\$29,070	91		\$10,617	0		-\$31,468	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	1,868	\$244,002												
2.4-1	Activities		Various	140		\$29,070	0		\$0	0		-\$31,468	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	1,777	\$284,874												
2.4-1a	Perform Record Data Search		HJA	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	60		\$9,885	0		\$0	0		\$0	0		\$0	0	\$0	\$9,885											
2.4-1b	Acquire Title Reports		HJA	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0												
2.4-1c	Perform Land Net Recovery and Field Ties		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0												
2.4-1d	Prepare Land Net Map - "Before Condition" Record of Survey		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0												
2.4-1e	Perform Monument Perpetuation Surveys		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0												
2.4-1f	Prepare Right-of-Way Appraisal Maps		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	288		\$52,779	0		\$0	0		\$0	0		\$0	0	288	\$52,779											
2.4-1g	Prepare Acquisition Documents		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	46		\$8,998	0		\$0	0		\$0	0		\$0	0	46	\$8,998											
2.4-1h	Prepare Resolution of Necessity Legal Description and Plats		HJA	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0												
2.4-1i	Prepare Director's Deed and Plats		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	198		\$37,031	0		\$0	0		\$0	0		\$0	0	198	\$37,031											
2.4-1j	Prepare Utility Legal Description and Plat		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	278		\$50,951	0		\$0	0		\$0	0		\$0	0	278	\$50,951											
2.4-1k	Prepare Parcel Files		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	26		\$4,514	0		\$0	0		\$0	0		\$0	0	26	\$4,514											
2.4-1l	Prepare appraisals		HJA	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	110		\$18,123	0		\$0	0		\$0	0		\$0	0	110	\$18,123											
2.4-1m	Prepare secondary appraisals		EPIC	0		\$0	0		\$0	0		-\$31,468	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0	-\$31,468											
2.4-1n	Prepare Right-of-Way Requirement Maps (PD-26)		Guida	140		\$29,070	0		\$0	0		\$0	0		\$0	0		\$0	48		\$9,736	0		\$0	0		\$0	0		\$0	0	188	\$38,806											
2.4-1o	Additional Design Survey		Guida	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	333		\$54,066	0		\$0	0		\$0	0		\$0	0	333	\$54,066											
2.4-1p	Acquire Right of Entry Permits		HJA	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$41,188	0		\$0	0		\$0	0		\$0	0	250	\$41,188											
2.4-2	Right of Way Acquisition		HJA	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		-\$51,489	0		\$0	0		\$0	0		\$0	0	0	-\$51,489											
	SUBTOTAL - Task 2 - Plan Preparation			14,289		\$1,398,824	91		\$10,617	0		-\$31,468	0		\$0	1,033		\$0	1,265		\$224,173	420		\$17,708	2,809		\$322,563	996		\$118,245	466	\$31,782	376	-\$65,452	0	-\$5	1,059	\$21,459	#####	\$2,048,444				
TASK 3 - SPECIFICATION PREPARATION																																												
3.1	Bid Specifications		Various	748		\$42,691	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	170		\$18,343	74		\$14,451	58		\$623	80		\$1,296	0		\$0	80		\$330	1,295	\$77,734			
3.1a	65% Specifications		Various	217		\$38,088	0		\$0	0		\$0	0		\$0	1		\$0	0		\$0	0		\$0	55		\$10,098	38		\$7,340	10		\$1,935	14		\$2,891	0		\$0	12		\$1,428	347	\$61,779
3.1b	95% Specifications		Various	388		\$3,492	0		\$0	0		\$0	0		\$0	42		\$0	0		\$0	0		\$0	85		\$6,570	28		\$5,541	30		-\$2,916	48		-\$1,164	0		\$0	42		-\$1,206	663	\$10,316
3.1c	100% Specifications		Various	143		\$1,111	0		\$0	0		\$0	0		\$0	42		\$0	0		\$0	0		\$0	30		\$1,675	8		\$1,570	18		\$1,604	18		-\$431	0		\$0	26		\$109	285	\$5,638
	SUBTOTAL - Task 3 - Specification Preparation			748		\$42,691	0		\$0	0		\$0	0		\$0	85		\$0	0		\$0	0		\$0	170		\$18,343	74		\$14,451	58		\$623	80		\$1,296	0		\$0	80		\$330	1,295	\$77,734
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST																																												
4.1	Engineer's Estimate		Various	899		\$103,827	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	205		\$17,272	47		\$9,897	46		\$2,135	161		-\$27,677	0		\$0	70		\$268	1,428	\$105,723			
4.1a	65% Engineer's Estimate		Various	599		\$100,657	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	90		\$13,513	28		\$5,884	19		\$2,017	31		\$5,038	0		\$0	40		\$4,317	807	\$131,426			
4.1b	95% Engineer's Estimate		Various	184		\$1,968	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	80		\$3,637	14		\$2,942	16		\$69	83		-\$30,678	0		\$0	20		-\$4,086	397	-\$26,148			
4.1c	100% Engineer's Estimate		Various	116		\$1,227	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	35		\$122	5		\$1,071	11		\$49	47		-\$2,036	0		\$0	10		\$38	224	\$469			
4.1d	Alt 3a and 3b Engineer's Estimate		WKE	0		-\$25	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0	0	-\$25	
	SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost			899		\$103,827	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	205		\$17,272	47		\$9,897	46		\$2,135	161		-\$27,677	0		\$0	70		\$268	1,428	\$105,723			
TASK 5 - GEOTECHNICAL INVESTIGATION																																												
5.1	Geotechnical and Foundation Reports		Fugro	0		\$0	0		\$0	0		\$0	792		-\$18,372	0		\$0	1019		\$43,767	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	1,811	\$25,395
5.1a	Geotechnical Design Report (GDR)		Fugro	0		\$0	0		\$0	0		\$0	78		\$724	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	78	\$724
5.1b	Percolation Testing (4 Locations)		Fugro	0		\$0	0		\$0	0		\$0	46		\$342	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	46	\$342
5.1c	Foundation Reports for Bridges, Retaining, and Sound Wall, OH Signs		Fugro	0		\$0	0		\$0	0		\$0	365		-\$35,790	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	365	-\$35,790
5.1d	Materials Report		Fugro	0		\$0	0		\$0	0		\$0	61		\$4,328	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	61	\$4,328
5.1e	Final Geotechnical Investigation Report		Fugro	0		\$0	0		\$0	0		\$0	242		\$12,024	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	242	\$12,024
5.1f	Additional Testing for Hazardous Materials		Fugro	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0	\$0
5.1g	Extended Hazardous Materials Testing		Fugro	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	1,019		\$43,767	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	1,019	\$43,767
	SUBTOTAL - Task 5 - Geotechnical Investigation			0		\$0	0		\$0	0		\$0	792		-\$18,372	0		\$0	1,019		\$43,767	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	1,811	\$25,395
TASK 6 - PERMITTING																																												
6.1	Permit Applications		WKE	344		\$5,062	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	344	\$5,062
6.2	Fact Sheets		WKE	621		\$119,385	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	621	\$119,385
	SUBTOTAL - Task 6 - Permitting			965		\$124,447	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	0		\$0	965	\$124,447

TASK	DESCRIPTION		WKE	Douglas	Epic	Fugro	GPA	Group Delta	Guida	HJA	KHA	KJC	LIN	PadRm	Padre	Tatsumi	TOTAL HOURS	COST
TASK 7 - BID AND CONSTRUCTION SUPPORT																		
7.1	Pre-Construction Meeting	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.2	Partnering Workshop	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.4	Shop Drawing and Submittal Review	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.5	Additional drawings at Caltrans Request	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.6	Site Visits/Construction Meetings	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.7	Respond to Inquiries/ RFIs	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.8	Change Order Preparation and Review, CRIP Reviews	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.9	Develop As-Builts and Final Record Drawing Plans	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.11	Deliver Project Files	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.12	Post Audits	Various	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.13	CPUC Section 190 Reimbursement to City; & file Form G	Douglas	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
7.14	Railroad 5% Mandatory Contribution Payment(s) to City	Douglas	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
SUBTOTAL - Task 7 - Bid and Construction Support			0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
SUBTOTAL Design Phase (Tasks 1 thru 6)			19,821	\$2,071,727	91	\$10,617	0	-\$31,468	792	-\$18,372	1,117	\$0	1,019	\$43,767	1,265	\$224,173	420	\$2,783,681
SUBTOTAL Construction Phase (Task 7)			0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
SUBTOTAL Other Direct Cost			0	\$22,218	0	\$262.00	0	-\$185.30	0	\$55,219.29	0	\$0	0	\$11,270	0	\$1,139	0	\$199,116
SUBTOTAL Subconsultants			0	\$0	0	\$0	0	-\$7,500	0	\$0	0	\$0	0	\$89,841	0	-\$8,256	0	\$74,084
TOTAL			19,821	\$2,093,945.15	91	\$10,879.08	0	-\$39,153.27	792	\$36,846.81	1,117	\$0.00	1,019	\$144,878.01	1,265	\$217,055.17	420	\$3,056,880.66

WKE

[illegible]

CONTRACT PRICING PROPOSAL			Page <u> 2 </u> of <u> 2 </u>
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$20.00	Parking	31	\$620.00
\$0.580	Mileage	8000	\$4,640.00
		3a. TOTAL	\$5,260.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.10	Printing (8.5"x11" Black & White)	1,890	\$189.00
\$0.20	Printing (11"x17" Black & White)	25,500	\$5,100.00
\$0.40	Printing (8.5"x11" Color)	28,500	\$11,400.00
\$0.80	Printing (11"x17" Color)	1,920	\$1,536.00
\$11.00	Full Color Presentation Exhibits	800	\$8,800.00
\$2,000.00	Potholes		\$0.00
\$10.00	Printing (24"x36" Black & White 4-Mil Mylar Prints)	500	\$5,000.00
		5. TOTAL	\$32,025.00
TYPE NAME AND TITLE			
Carlos Cadena, Senior Vice President			
NAME OF FIRM		DATE OF SUBMISSION	
WKE, Inc.			

TASK	DESCRIPTION	FIRM	Project Manager	Discipline Lead	Senior Task Manager	Senior Project Engineer 2	Senior Project Engineer 1	Project Engineer	Assistant Engineer	CADD	Administrative	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$307.04	\$263.41	\$237.37	\$237.72	\$189.06	\$129.97	\$88.26	\$101.41	\$78.05				
TASK 1 - PROJECT MANAGEMENT															
1.1-1	Coordination/Administration	WKE	434	296	296	590	172	0	0	0	388	2176	\$484,544.44	-\$239,854.28	\$244,690.16
1.1-1a	Coordination and Meetings	WKE	248	248	248	248	124					1,116	\$282,738	-\$120,122	\$162,616.46
1.1-1b	Administration	WKE									248	248	\$19,357	-\$4,587	\$14,770.09
1.1-1c	Site Visits	WKE		48	48	48	48					192	\$44,523	-\$39,644	\$4,879.06
1.1-1d	Maintain Project Files/Document Control	WKE				108					140	248	\$36,601	-\$15,600	\$21,000.89
1.1-1e	Subconsultant Coordination & Contracts/Agreements	WKE	186			186						372	\$101,326	-\$59,902	\$41,423.66
1.1-3	Project Schedule	WKE	186			186						372	\$101,326	-\$12,912	\$88,414.17
1.1-4	Monthly Progress Reports and Invoices	WKE	88	88	88	108						372	\$96,762	-\$27,929	\$68,833.30
SUBTOTAL Task 1 - Project Management			708	384	384	884	172	0	0	0	388	2,920	\$682,632	-\$280,695	\$401,938
TASK 2 - PLAN PREPARATION															
2.1	65% PS&E SUBMITTAL	Various	63	638	481	1009	1092	1615	1271	466	0	6635	\$1,117,213	\$0	\$1,117,212.71
2.1-0	35% PS&E (Geometric Design and BSDS)	WKE	28	280	70	280	140		140			938	\$204,354		\$204,354.06
2.1-1	Roadway Plans	WKE/Guida	10	208	10	383	259	516	496	16	0	1898	\$312,708	\$0	\$312,707.78
2.1-1a	Title Sheet	WKE		6		6		20				32	\$5,606		\$5,606.13
2.1-1b	Typical Cross Sections	WKE		20		30		35	37			122	\$20,214		\$20,214.27
2.1-1c	Key Map & Line Index	WKE		2		2		8	8			20	\$2,748		\$2,748.08
2.1-1e	Layout Plans	WKE		30		40	50	33	33			186	\$34,065		\$34,065.37
2.1-1f	Profiles and Superelevation Diagrams	WKE		30	10	40	45	50	50			225	\$39,204		\$39,203.65
2.1-1g	Construction Details	WKE	10	85	0	175	164	265	263	16	0	978	\$157,342	\$0	\$157,342.38
2.1-1g.1	Removals	WKE		20		35	55	70	70			250	\$39,262		\$39,262.31
2.1-1g.2	Intersections and Curb Ramps	WKE	10	25		76	69	30	28			238	\$47,137		\$47,137.43
2.1-1g.3	Misc Details	WKE		40		64	40	165	165	16		490	\$70,943		\$70,942.63
2.1-1h	Contour Grading Plans	WKE		20		60		60	60			200	\$32,625		\$32,624.95
2.1-1i	Summary of Quantities	WKE		15		30		45	45			135	\$20,903		\$20,902.95
2.1-2	Drainage Plans	WKE/Tatsumi	0	7	361	20	403	495	2	0	0	1,288	\$232,988	\$0	\$232,988.23
2.1-2a	Drainage Report	WKE					60	60				120	\$19,141		\$19,141.34
2.1-2b	Drainage Plans, Profiles, Details, and Quantities	WKE	0	7	311	20	343	355	2	0	0	1038	\$191,581	\$0	\$191,581.03
2.1-2b.1	Drainage Plans	WKE		7	71	20	140	85	2			325	\$61,143		\$61,142.96
2.1-2b.2	Drainage Profiles	WKE			80		80	120				280	\$49,710		\$49,710.05
2.1-2b.3	Drainage Details	WKE			80		50	50				180	\$34,941		\$34,940.69
2.1-2b.4	Drainage Quantities	WKE			50		35	60				145	\$26,283		\$26,283.45
2.1-2b.5	Temporary Drainage Plans, Profiles, Details, and Quantities	WKE			30		38	40				108	\$19,504		\$19,503.88
2.1-2c	Temporary Water Pollution Control Plans	WKE			50			80				130	\$22,266		\$22,265.85
2.1-4	Pavement Delineation Plans	WKE	0	21	0	24	0	70	83	0	0	198	\$27,660	\$0	\$27,660.17
2.1-4a	Pavement Delineation Plans	WKE		8		8		35	48			99	\$12,794		\$12,794.37
2.1-4b	Pavement Delineation Details	WKE		5		8		15	15			43	\$6,492		\$6,492.21
2.1-4c	Pavement Delineation Quantities	WKE		8		8		20	20			56	\$8,374		\$8,373.59
2.1-8	Bridge Plans (Unchecked Details)	WKE/Tatsumi	0	70	0	80	120	260	180	290	0	1,000	\$139,229	\$0	\$139,229.18
2.1-8a	Rice Avenue Overcrossing	WKE		60		60	120	200	180	250		870	\$119,986		\$119,986.39
2.1-8c	General Plan - Alternative 3B	WKE		10		20		60		40		130	\$19,243		\$19,242.79
2.1-10	Utility Plans	WKE/KJC	0	8	0	36	0	80	40	0	0	164	\$24,593	\$0	\$24,592.91
2.1-10a	Utility Sheets	WKE		4		8		20	20			52	\$7,320		\$7,319.93
2.1-10b	Utility Coordination	WKE		4		8		20	20			52	\$7,320		\$7,319.93
2.1-10c	Update Utility Conflict Matrix	WKE				20		40				60	\$9,953		\$9,953.04
2.1-12	Storm Water Data Report	WKE	5	4		6	10	10	10			45	\$8,088		\$8,088.00
2.1-13	Constructability Review	WKE				20		24				44	\$7,874		\$7,873.56
2.1-14	QA/QC	WKE	20	40	40	160	160	160	320	160		1,060	\$159,719		\$159,718.82

TASK	DESCRIPTION	FIRM	Project Manager	Discipline Lead	Senior Task Manager	Senior Project Engineer 2	Senior Project Engineer 1	Project Engineer	Assistant Engineer	CADD	Administrative	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
2.2	95% PS&E SUBMITTAL	Various	93	419	424	1030	753	1573	1076	400	0	5,768	\$966,747	-\$696,307	\$270,439.68
2.2-1	Update Roadway Plans	WKE/Guida	1	107	0	168	171	345	322	0	0	1114	\$174,016	-\$40,059	\$133,956.16
2.2-1a	Update Title Sheet	WKE	1	4		6	14	20				45	\$8,033	-\$1,289	\$6,743.92
2.2-1b	Update Typical Cross Sections	WKE		9		40	49	49	32			179	\$30,336	-\$4,868	\$25,467.41
2.2-1c	Update Key Map & Line Index	WKE							16			16	\$1,412	-\$227	\$1,185.53
2.2-1e	Update Layout Plans	WKE		18		18	20	58	42			156	\$24,046	-\$3,859	\$20,187.40
2.2-1f	Update Profiles and Superelevation Diagrams	WKE		18		26	26	50	50			170	\$26,749	-\$4,293	\$22,456.11
2.2-1g	Update Construction Details	WKE	0	40	0	46	42	70	82	0	0	280	\$45,747	-\$8,590	\$37,156.86
2.2-1g.1	Update Removals	WKE		22		18	18	30	42			130	\$21,083	-\$3,383	\$17,699.46
2.2-1g.2	Update Intersections and Curb Ramps	WKE		8		8	4	10	10			40	\$6,948	-\$2,222	\$4,725.84
2.2-1g.3	Update Misc Details	WKE		10		20	20	30	30			110	\$17,716	-\$2,985	\$14,731.55
2.2-1h	Update Contour Grading Plans	WKE		10		20	20	58	60			168	\$24,003	-\$3,852	\$20,151.12
2.2-1i	Update Summary of Quantities	WKE		8		12		40	40			100	\$13,689	-\$13,081	\$607.82
2.2-2	Update Drainage Plans	WKE/Tatsumi	0	0	240	0	190	510	0	0	0	940	\$159,172	-\$129,804	\$29,368.23
2.2-2b	Update Drainage Plans, Profiles, Details, and Quantities	WKE	0	0	160	0	150	450	0	0	0	760	\$124,823	-\$102,405	\$22,417.97
2.2-2b.1	Update Drainage Plans	WKE			60		30	130				220	\$36,810	-\$29,024	\$7,785.33
2.2-2b.2	Update Drainage Profiles	WKE			30		30	140				200	\$30,988	-\$24,718	\$6,270.07
2.2-2b.3	Update Drainage Details	WKE			30		30	80				140	\$23,190	-\$18,498	\$4,692.24
2.2-2b.4	Update Drainage Quantities	WKE			20		40	60				120	\$20,108	-\$19,215	\$892.81
2.2-2b.5	Update Temporary Drainage Plans, Profiles, Details, and Quantities	WKE			20		20	40				80	\$13,727	-\$10,950	\$2,777.52
2.2-2c	Update Temporary Water Pollution Control Plans	WKE			80		40	60				180	\$34,350	-\$27,400	\$6,950.26
2.2-4	Update Pavement Delineation Plans	WKE	0	28	0	64	68	84	0	0	0	244	\$46,363	-\$17,348	\$29,014.29
2.2-4a	Update Pavement Delineation Plans	WKE		20		40	40	60				160	\$30,137	-\$7,050	\$23,087.25
2.2-4b	Update Pavement Delineation Details	WKE		4		12	12	8				36	\$7,215	-\$1,688	\$5,526.95
2.2-4c	Update Pavement Delineation Quantities	WKE		4		12	16	16				48	\$9,011	-\$8,611	\$400.09
2.2-8	Update Bridge Plans	WKE/Tatsumi	0	60	0	320	130	240	240	240	0	1,230	\$193,164	-\$183,097	\$10,067.16
2.2-8a	Rice Avenue Overcrossing	WKE		20		120	130	240	240	240		990	\$135,084	-\$127,595	\$7,488.32
2.2-8b	Update Aesthetics Structures Details	Tatsumi										0	\$0	\$0	\$0.00
2.2-8c	Bridge Independent Check	WKE		40		200						240	\$58,080	-\$55,501	\$2,578.84
2.2-9	Update Retaining Wall Plans	Various	0	0	0	0	0	0	0	0	0	0	\$0	-\$126,853	-\$126,853.34
2.2-9a	Update Retaining Wall Key Map	WKE										0	\$0	-\$2,067	-\$2,067.45
2.2-9b	Retaining Wall 1	PacRim										0	\$0		\$0.00
2.2-9c	Retaining Wall 2	N/A										0	\$0		\$0.00
2.2-9d	Retaining Wall 3	WKE										0	\$0	-\$38,189	-\$38,188.53
2.2-9e	Retaining Wall 4	WKE/PacRim										0	\$0	-\$43,299	-\$43,298.68
2.2-9f	Retaining Wall 5	WKE/PacRim										0	\$0	-\$43,299	-\$43,298.68
2.2-9g	Update Aesthetics Wall Details	Tatsumi										0	\$0		\$0.00
2.2-9h	Retaining Wall 1 - Alternative 3B	PacRim										0	\$0		\$0.00
2.2-10	Update Utility Plans	WKE/KJC	0	70	80	120	0	120	90	0	0	480	\$89,494	-\$28,768	\$60,726.29
2.2-10a	Update Utility Sheets	WKE		20	30	20		20	40			130	\$23,273	-\$8,790	\$14,482.99
2.2-10b	Utility Coordination	WKE		50	50	50		50	50			250	\$47,836	-\$13,034	\$34,802.85
2.2-10c	Update Utility Conflict Matrix	WKE				50		50				100	\$18,384	-\$6,944	\$11,440.45
2.2-11	Construction Schedule	WKE		30	50	60						140	\$34,034	-\$32,523	\$1,511.16
2.2-12	Utility and ROW Update	WKE		4	6	10	10	10				40	\$8,045	-\$7,688	\$357.22
2.2-13	Update SWDR	WKE	4		4	12	12	20	20			72	\$11,663	-\$11,146	\$517.88
2.2-14	ECR, Re-Validation, and Supplemental Project Report	WKE/GPA	24	0	0	104	0	64	64	0	0	256	\$46,058	\$0	\$46,058.21
2.2-14d	Supplemental Project Report	WKE	24			104		64	64			256	\$46,058		\$46,058.21
2.2-17	Update Drainage Report	WKE	4		4	12	12	20	20			72	\$11,663	-\$11,146	\$517.88
2.2-18	Constructability Review	WKE	40	80								120	\$33,355	-\$25,513	\$7,841.48
2.2-19	QA/QC	WKE	20	40	40	160	160	160	320	160		1,060	\$159,719	-\$82,362	\$77,357.05

TASK	DESCRIPTION	FIRM	Project Manager	Discipline Lead	Senior Task Manager	Senior Project Engineer ₂	Senior Project Engineer ₁	Project Engineer	Assistant Engineer	CADD	Administrative	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
2.3	100% PS&E SUBMITTAL	Various	44	176	160	242	142	481	361	140	0	1,746	\$290,796	-\$308,695	-\$17,898.57
2.3-1	Final Roadway Plans	WKE/Guida	0	56	0	80	0	84	85	0	0	305	\$52,188	-\$52,080	\$108.24
2.3-1a	Final Title Sheet	WKE		2		2		4				8	\$1,522	-\$1,455	\$67.58
2.3-1b	Final Typical Cross Sections	WKE		10		10		10	10			40	\$7,194	-\$6,874	\$319.40
2.3-1c	Final Key Map & Line Index	WKE		2				2				4	\$787	-\$752	\$34.93
2.3-1e	Final Layout Plans	WKE		10		16		8	8			42	\$8,183	-\$7,820	\$363.36
2.3-1f	Final Profiles and Superelevation Diagrams	WKE		4		4		10	12			30	\$4,363	-\$4,170	\$193.74
2.3-1g	Final Construction Details	WKE	0	20	0	24	0	34	36	0	0	114	\$18,570	-\$19,954	-\$1,384.46
2.3-1g.1	Final Removals	WKE		10		10		10	10			40	\$7,194	-\$6,874	\$319.40
2.3-1g.2	Final Intersections and Curb Ramps	WKE		2		2		4	6			14	\$2,052	-\$4,170	-\$2,117.88
2.3-1g.3	Final Misc Details	WKE		8		12		20	20			60	\$9,324	-\$8,910	\$414.02
2.3-1h	Final Contour Grading Plans	WKE		4		16		10	12			42	\$7,216	-\$6,896	\$320.40
2.3-1i	Final Summary of Quantities	WKE		4		8		6	7			25	\$4,353	-\$4,160	\$193.28
2.3-2	Final Drainage Plans	WKE/Tatsumi	0	0	100	0	0	180	20	0	0	300	\$48,896	-\$46,725	\$2,171.07
2.3-2a	Final Drainage Plans, Profiles, Details, and Quantities	WKE	0	0	80	0	0	110	20	0	0	210	\$35,051	-\$33,495	\$1,556.32
2.3-2a.1	Final Drainage Plans	WKE			20			40				60	\$9,946	-\$9,504	\$441.62
2.3-2a.2	Final Drainage Profiles	WKE			20			20	20			60	\$9,112	-\$8,707	\$404.58
2.3-2a.3	Final Drainage Details	WKE			20			20				40	\$7,347	-\$7,021	\$326.21
2.3-2a.4	Final Drainage Quantities	WKE			12			18				30	\$5,188	-\$4,957	\$230.35
2.3-2a.5	Final Temporary Drainage Plans, Profiles, Details, and Quantities	WKE			8			12				20	\$3,459	-\$3,305	\$153.56
2.3-2b	Final Temporary Water Pollution Control Plans	WKE			20			70				90	\$13,845	-\$13,230	\$614.74
2.3-4	Final Pavement Delineation Plans	WKE	0	12	0	12	0	37	0	0	0	61	\$10,822	-\$10,342	\$480.53
2.3-4a	Final Pavement Delineation Plans	WKE		8		8		24				40	\$7,128	-\$6,812	\$316.50
2.3-4b	Final Pavement Delineation Details	WKE		2		2		5				9	\$1,652	-\$1,579	\$73.36
2.3-4c	Final Pavement Delineation Quantities	WKE		2		2		8				12	\$2,042	-\$1,951	\$90.67
2.3-8	Final Bridge Plans	WKE/Tatsumi	0	40	0	40	50	58	60	60	0	308	\$48,416	-\$46,266	\$2,149.75
2.3-8a	Rice Avenue Overcrossing	WKE		40		40	50	58	60	60		308	\$48,416	-\$46,266	\$2,149.75
2.3-9	Final Retaining Wall Plans	Various	0	0	0	0	0	0	0	0	0	0	\$0	-\$36,096	-\$36,095.67
2.3-9a	Final Retaining Wall Key Map	WKE										0	\$0	-\$687	-\$687.42
2.3-9d	Retaining Wall 3	WKE										0	\$0	-\$11,803	-\$11,802.75
2.3-9e	Retaining Wall 4	WKE/PacRim										0	\$0	-\$11,803	-\$11,802.75
2.3-9f	Retaining Wall 5	WKE/PacRim										0	\$0	-\$11,803	-\$11,802.75
2.3-10	Final Utility Plans	WKE/KJC	0	8	16	18	0	22	16	0	0	80	\$14,456	-\$13,814	\$641.85
2.3-10a	Final Utility Sheets	WKE		4	8	8		8	8			36	\$6,600	-\$6,307	\$293.05
2.3-10b	Utility Coordination	WKE		4	8	8		8	8			36	\$6,600	-\$6,307	\$293.06
2.3-10c	Update Utility Conflict Matrix	WKE				2		6				8	\$1,255	-\$1,200	\$55.74
2.3-12	Final Reports	WKE/KHA	4	0	4	12	12	20	20	0	0	72	\$11,663	-\$11,146	\$517.88
2.3-12a	Final Drainage Report	WKE			2	6	6	10	10			36	\$5,832	-\$5,573	\$258.93
2.3-12b	Final SWDR	WKE		2	2	6	6	10	10			36	\$5,832	-\$5,573	\$258.94
2.3-13	Final Construction Schedule	WKE	20	20								40	\$11,409	-\$10,903	\$506.58
2.3-14	QA/QC	WKE	20	40	40	80	80	80	160	80		580	\$92,946	-\$81,324	\$11,621.21
2.4	Right of Way Documentation and Engineering	Various	0	35	0	0	105	0	0	0	0	140	\$29,070	\$0	\$29,070.29
2.4-1	Activities	Various	0	35	0	0	105	0	0	0	0	140	\$29,070	\$0	\$29,070.29
2.4-1n	Prepare Right-of-Way Requirement Maps (PD-26)	Guida		35			105					140	\$29,070		\$29,070.29
2.4-2	Right of Way Acquisition	HJA										0	\$0		\$0.00
	SUBTOTAL - Task 2 - Plan Preparation		200	1,268	1,065	2,281	2,092	3,669	2,708	1,006	0	14,289	\$2,403,826	-\$1,005,002	\$1,398,824.11

TASK	DESCRIPTION	FIRM	Project Manager	Discipline Lead	Senior Task Manager	Senior Project Engineer 2	Senior Project Engineer 1	Project Engineer	Assistant Engineer	CADD	Administrative	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
TASK 3 - SPECIFICATION PREPARATION															
3.1	Bid Specifications	Various	0	100	8	150	240	250	0	0	0	748	\$141,763	-\$99,072	\$42,691.12
3.1a	65% Specifications	Various		10		30	90	87				217	\$38,088		\$38,087.78
3.1b	95% Specifications	Various		80	8	100	100	100				388	\$78,646	-\$75,154	\$3,492.00
3.1c	100% Specifications	Various		10		20	50	63				143	\$25,029	-\$23,918	\$1,111.34
SUBTOTAL - Task 3 - Specification Preparation			0	100	8	150	240	250	0	0	0	748	\$141,763.05	-\$99,071.93	\$42,691.12
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST															
4.1	Engineer's Estimate	Various	0	88	136	245	150	140	140	0	0	899	\$172,614	-\$68,786	\$103,827.33
4.1a	65% Engineer's Estimate	Various		44	18	110	150	140	137			599	\$100,657		\$100,657.08
4.1b	95% Engineer's Estimate	Various		24	80	80						184	\$44,329	-\$42,361	\$1,968.27
4.1c	100% Engineer's Estimate	Various		20	38	55			3			116	\$27,628	-\$26,401	\$1,226.71
4.1d	Alt 3a and 3b Engineer's Estimate	Various										0	\$0	-\$25	-\$24.73
SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost			0	88	136	245	150	140	140	0	0	899	\$172,614	-\$68,786	\$103,827.33
TASK 6 - PERMITTING															
6.1	Permit Applications	WKE	98	198		48						344	\$93,657	-\$88,595	\$5,061.80
6.2	Fact Sheets	WKE	24		287		164		146			621	\$119,385		\$119,385.14
SUBTOTAL - Task 6 - Permitting			122	198	287	48	164	0	146	0	0	965	\$213,042	-\$88,595	\$124,446.94
SUBTOTAL Design Phase (Tasks 1 thru 6)			1,030	2,038	1,880	3,608	2,818	4,059	2,994	1,006	388	19,821	\$3,613,877	-\$1,542,149.78	\$2,071,727.13
SUBTOTAL Construction Phase (Task 7)			0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0.00
SUBTOTAL Other Direct Cost			0	0	0	0	0	0	0	0	0	0	\$37,285	-\$15,067	\$22,218.02
SUBTOTAL Subconsultants			0	0	0	0	0	0	0	0	0	0	\$0	\$0	
TOTAL			1,030	2,038	1,880	3,608	2,818	4,059	2,994	1,006	388	19,821	\$3,651,161.91	-\$1,557,216.76	\$2,093,945.15

DOUGLAS ENGINEERING

EXHIBIT 10-H1 COST PROPOSAL PAGE 1 OF 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

☐ Prime Consultant☒ Subconsultant☐ 2nd Tier SubconsultantConsultant **Douglas Engineering, Inc**Project No. **133101**Contract No. **PW 18-47**Date **9/21/2019****DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Project Manager	Douglas Mays	10	\$85.00	\$850.00
Engr Tech	Michael Mays	65	\$45.00	\$2,925.00
Engr Tech	Paul Mays	16	\$45.00	\$720.00
		0	\$0.00	\$0.00
		0	\$0.00	\$0.00
		0	\$0.00	\$0.00
		0	\$0.00	\$0.00
		0	\$0.00	\$0.00
		0	\$0.00	\$0.00
				\$0.00
				\$0.00

LABOR COSTS

a) Subtotal Direct Labor Costs

\$4,495.00

b) Anticipated Salary Increases (see page 2 for calculation)

\$101.14

c) **TOTAL DIRECT LABOR COSTS [(a) + (b)]** \$4,596.14**INDIRECT COSTS**d) Fringe Benefits (Rate: **0.00%**)

e) Total Fringe Benefits [(c) x (d)] \$0.00

f) Overhead (Rate: **0.00%**)

g) Overhead [(c) x (f)] \$0.00

h) General and Administrative (Rate: **110.00%**)

i) Gen & Admin [(c) x (h)] \$5,055.75

j) **Total Indirect Costs [(e) + (g) + (i)]** \$5,055.75**FIXED FEE**k) **TOTAL FIXED FEE [(c) + (j)] x fixed fee** **10.00%**

\$965.19

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	150	Mile	\$0.580	\$87.00
Parking	1	EA	\$25.00	\$25.00
Plan Sheets (8.5"x11" Black & White on Bond)	0	EA	\$0.00	\$0.00
Plan Sheets (11"x17" Black & White on Bond)	0	EA	\$0.00	\$0.00
Plan Sheets (8.5"x11" Color on Bond)	0	EA	\$0.00	\$0.00
Plan Sheets (11"x17" Color on Bond)	0	EA	\$0.00	\$0.00
Plan Sheets (Full Color Presentation Exhibits on Bond)	0	EA	\$0.00	\$0.00
				\$0.00
Next Day Parcel Delivery	5		\$30.00	\$150.00
				\$0.00

l) **TOTAL OTHER DIRECT COSTS** \$262.00**m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Subconsultant 1:

\$0.00

Subconsultant 2:

\$0.00

Subconsultant 3:

\$0.00

Subconsultant 4:

\$0.00

m) **TOTAL SUBCONSULTANTS' COSTS** \$0.00n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS[(l) + (m)]** \$262.00**TOTAL COST [(c) + (j) + (k) + (n)]** \$10,879.08**NOTES:**

- Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL PAGE 2 OF 3
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
 (CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$4,495.00	91	=	\$49.40	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$49.40	+	3.0%	=	\$50.88	Year 2 Avg Hourly Rate
Year 2	\$50.88	+	3.0%	=	\$52.40	Year 3 Avg Hourly Rate
Year 3	\$52.40	+	3.0%	=	\$53.98	Year 4 Avg Hourly Rate
Year 4	\$53.98	+	3.0%	=	\$55.60	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	25.00%	*	91.0	=	22.8	Estimated Hours Year 1
Year 2	75.00%	*	91.0	=	68.3	Estimated Hours Year 2
Year 3	0.00%	*	91.0	=	0.0	Estimated Hours Year 3
Year 4	0.00%	*	91.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	91.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	91.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$49.40	*	23	=	\$1,123.75	Estimated Hours Year 1
Year 2	\$50.88	*	68	=	\$3,472.39	Estimated Hours Year 2
Year 3	\$52.40	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$53.98	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$55.60	*	0	=	\$0.00	Estimated Hours Year 5
Total Direct Labor Cost with Escalation				=	\$4,596.14	
Direct Labor Subtotal before Escalation				=	\$4,495.00	
Estimated total of Direct Labor Salary Increase				=	\$101.14	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL PAGE 3 OF 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name:	<u>Douglas H. Mays</u>	Title*:	<u>President</u>
Signature:		Date of Certification (mm/dd/yyyy):	<u>9/21/2019</u>
Email:	<u>Dhmays@douglascivil.com</u>	Phone Number:	<u>909-335-8670</u>
Address:	<u>414 Tennessee St, Ste G, Redlands Ca 92373</u>		

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EPIC LAND SOLUTIONS

CONTRACT PRICING PROPOSAL					
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks					
Name of Proposer Epic Land Solutions, Inc.				DIVISIONS/LOCATIONS Torrance, CA	
Home Office Address 2601 Airport Drive, Suite 115, Torrance, CA 90505				CONTRACT NO. RFP PW18-47	
Services to be Performed Right of Way Appraisals				TOTAL AMOUNT OF PROPOSAL (\$39,153.27)	
DETAILED DESCRIPTION OF COST ELEMENTS					
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost	
Chief Appraiser	0	\$79.33	\$0		
Appraiser	0	\$43.27	\$0		
Administrative Support	0	\$24.04	\$0		
	0	\$0.00	\$0		
	0	\$0.00	\$0		
	0	\$0.00	\$0		
	0	\$0.00	\$0		
	0	\$0.00	\$0		
	0	\$0.00	\$0		
Labor Cost	0		\$0		
Escalation	3%		\$0		
Total Direct Labor				\$0	
2. Labor Overhead Rate	Rate				
	179.42%				
				\$0	
3. Travel			Est. Cost (\$)		
a. Transportation			\$0		
b. Per Diem or Subsistence			\$0		
Total Travel				\$0	
4. Subcontractors/Suppliers			Est. Cost (\$)		
FF&E Appraisal			\$0		
Total Subcontractors/Suppliers				\$0	
5. Other Direct Costs				\$0	
6. General & Admin. Expense				\$0	
7. Fee		10%		\$0	
TOTAL COST AND FEE TO COMPLETE PROJECT				\$0.00	
REMAINING BALANCE				(\$39,153.27)	
TOTAL ESTIMATED AMENDMENT COST AND FEE				(\$39,153.27)	

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.545	Mileage		\$0.00
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
	Printing (8.5"x11" Black & White)		\$0.00
	Printing (11"x17" Black & White)		\$0.00
	Printing (8.5"x11" Color)		\$0.00
	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
		5. TOTAL	\$0.00
TYPE NAME AND TITLE			
HOLLY ROCKWELL			
NAME OF FIRM		DATE OF SUBMISSION	
Epic Land Solutions, Inc.		August 5, 2019	

TASK	DESCRIPTION	FIRM	Chief Appraiser	Appraiser	Administrative Support	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened) for 1/1/18 to 12/13/19		Project Average	\$247.49	\$134.99	\$75.00				
TASK 2 - PLAN PREPARATION									
2.4	Right of Way Documentation and Engineering	Various	0	0	0	0	\$0	-\$31,468	-\$31,468
2.4-1	Activities	Various	0	0	0	0	\$0	-\$31,468	-\$31,468
2.4-1m	Prepare secondary appraisals	EPIC				0	\$0	-\$31,468	-\$31,468
2.4-2	Right of Way Acquisition	HJA				0	\$0		\$0
	SUBTOTAL - Task 2 - Plan Preparation		0	0	0	0	\$0	-\$31,468	-\$31,468
SUBTOTAL Design Phase (Tasks 1 thru 6)							\$0	-\$31,468	-\$31,468
SUBTOTAL Construction Phase (Task 7)							\$0	\$0	\$0
SUBTOTAL Other Direct Cost							\$0	-\$185	-\$185
SUBTOTAL Subconsultants							\$0	-\$7,500	-\$7,500
TOTAL							\$0.00	-\$39,153.27	-\$39,153.27

FUGRO USA LAND

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.580	Mileage	100	\$58.00
		3a. TOTAL	\$58.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$13,000.00	Geotechnical Laboratory Testing	1	\$13,000.00
\$825.00	Permitting (Ventura County)	1	\$825.00
\$53,200.00	Geotechnical Drilling	1	\$53,200.00
\$17,000.00	Geotechnical CPT Soundings	1	\$17,000.00
\$6,200.00	Investigation Derived Waste Disposal	1	\$6,200.00
\$4,600.00	Traffic Control	1	\$4,600.00
\$1,000.00	Concrete coring	1	\$1,000.00
\$500.00	PID Rental	1	\$500.00
		5. TOTAL	\$96,325.00
TYPE NAME AND TITLE			
NAME OF FIRM		DATE OF SUBMISSION	
Fugro USA Land		August 5, 2019	

TASK	DESCRIPTION	FIRM	Senior Principal	Principal	Associate	Senior	Senior Project	Project	Senior Staff	Staff	GIS Analyst	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
	Project Billing Rate (Burdened)	Project Average	\$0.00	\$244.98	\$201.54	\$170.55	\$155.99	\$137.20	\$119.26	\$105.05	\$151.23				
TASK 5 - GEOTECHNICAL INVESTIGATION															
5.1	Geotechnical and Foundation Reports	Fugro	0	72	151	0	299	0	200	0	70	792	\$129,152	-\$147,524	-\$18,372
5.1a	Geotechnical Design Report (GDR)	Fugro		10	20		18		18		12	78	\$13,250	-\$12,526	\$724
5.1b	Percolation Testing (4 Locations)	Fugro		2	4		16		20		4	46	\$6,782	-\$6,440	\$342
5.1c	Foundation Reports for Bridges, Retaining, and Sound Wall, OH Signs	Fugro		40	75		120		100		30	365	\$60,097	-\$95,887	-\$35,790
5.1d	Materials Report	Fugro		10	12		15		12		12	61	\$10,454	-\$6,126	\$4,328
5.1e	Final Geotechnical Investigation Report	Fugro		10	40		130		50		12	242	\$38,568	-\$26,545	\$12,024
		Fugro										0	\$0		\$0
		Fugro										0	\$0		\$0
	SUBTOTAL - Task 5 - Geotechnical Investigation		0	72	151	0	299	0	200	0	70	792	\$129,152	-\$147,524	-\$18,372
SUBTOTAL Design Phase (Tasks 1 thru 6)													\$129,152	-\$147,524	-\$18,372
SUBTOTAL Construction Phase (Task 7)													\$0	\$0	\$0
SUBTOTAL Other Direct Cost													\$96,383	-\$41,164	\$55,219
SUBTOTAL Subconsultants													\$0	\$0	\$0
TOTAL													\$225,534.87	-\$188,688.06	\$36,846.81

GPA CONSULTANTS

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$80.00	Travel	4	\$320.00
\$0.545	Mileage 2018	1600	\$872.00
\$0.580	Mileage 2019	546.4	\$316.91
(\$19.46)	Parking	1	(\$19.46)
		3a. TOTAL	\$1,489.45
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
	Printing (8.5"x11" Black & White)		\$0.00
	Printing (11"x17" Black & White)		\$0.00
	Printing (8.5"x11" Color)		\$0.00
	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
\$20.00	Delivery (Revalidation Packages)	12	\$240.00
		5. TOTAL	\$240.00
TYPE NAME AND TITLE		SIGNATURE	
Richard Galvin, Vice President			
NAME OF FIRM		DATE OF SUBMISSION	
GPA Consultants			

TASK	DESCRIPTION	FIRM	Principal Environmental Planner	Senior Environmental Planner	Senior Environmental Planner	Environmental Planner	Environmental Planner	Senior Associate Biologist	Senior Biologist	Associate Biologist	Associate Biologist	Senior GIS Analyst	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$255.73	\$136.60	\$132.88	\$79.82	\$74.50	\$154.99	\$126.68	\$96.87	\$83.82	\$117.97				
2.2	95% PS&E SUBMITTAL	Various	22	209	154	366	90	8	16	81	32	56	1,033	\$110,697	-\$110,697	\$0
2.2-14	Environmental Commitment Record (ECR)	WKE/GPA	22	209	154	366	90	8	16	81	32	56	1033	\$110,697	-\$110,697.28	\$0
2.2-14a	Environmental Commitment Record (ECR)	WKE	31	156	(12)	90	90	8		13		12	388	\$45,413	-\$45,413	\$0
2.2-14b	Environmental Mitigation	WKE	(9)	12	(28)	40			16	32	32		95	\$6,679	-\$6,679	\$0
2.2-14c	Environmental Document Re-Validation Technical Studies Update	WKE/GPA	(1)	41	194	236				36		44	550	\$58,605	-\$58,605	\$0
SUBTOTAL - Task 2 - Plan Preparation			22	209	154	366	90	8	16	81	32	56	1,033	\$110,697	-\$110,697	\$0
TASK 3 - SPECIFICATION PREPARATION																
3.1	Bid Specifications	Various	12	0	-29	20	20	2	32	-5	0	32	85	\$10,039	-\$10,038.84	\$0
3.1a	65% Specifications	Various	8	-16	-37	8	8	2	16	-5		16	1	\$1	-\$1	\$0
3.1b	95% Specifications	Various	2	8	4	6	6		8			8	42	\$5,019	-\$5,019	\$0
3.1c	100% Specifications	Various	2	8	4	6	6		8			8	42	\$5,019	-\$5,019	\$0
SUBTOTAL - Task 3 - Specification Preparation			12	0	(29)	20	20	2	32	(5)	0	32	85	\$10,038.84	-\$10,039	\$0
SUBTOTAL Design Phase (Tasks 1 thru 6)			34	209	125	386	110	10	48	77	32	88	1,117	\$120,736	-\$120,736	\$0
SUBTOTAL Construction Phase (Task 7)			0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0
SUBTOTAL Other Direct Cost			0	0	0	0	0	0	0	0	0	0	0	\$1,729	-\$1,729	\$0
SUBTOTAL Subconsultants			0	0	0	0	0	0	0	0	0	0	0	\$41,624	-\$41,624	\$0
TOTAL			34	209	125	386	110	10	48	77	32	88	1,117	\$164,089.31	-\$164,089.31	\$0.00

GROUP DELTA

CONTRACT PRICING PROPOSAL				
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks				
Name of Proposer		DIVISIONS/LOCATIONS		
Group Delta		Environmental		
Home Office Address		CONTRACT NO.		
32 Mauchly, Suite B, Irvine, CA 92618				
Services to be Performed		TOTAL AMOUNT OF PROPOSAL		
Phase II Site Investigation - Alternative 3B		\$144,878.01		
DETAILED DESCRIPTION OF COST ELEMENTS				
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost
Principal	28	\$112.87	\$3,160	
Associate	140	\$63.47	\$8,886	
Senior	14	\$45.00	\$630	
Project	170	\$38.87	\$6,608	
Staff	520	\$31.73	\$16,500	
Technician	24	\$32.57	\$782	
Draftsperson	108	\$34.37	\$3,712	
Project Support	15	\$29.48	\$442	
	0	\$0.00	\$0	
Labor Cost	1,019		\$40,720	
Escalation	3%	Per 10-H	\$1,222	
Total Direct Labor				\$41,941
2. Labor Overhead Rate	Rate			
	137.30%			
				\$57,585
3. Travel			Est. Cost (\$)	
a. Transportation			\$1,065	
b. Per Diem or Subsistence			\$800	
Total Travel				\$1,865
4. Subcontractors/Suppliers			Est. Cost (\$)	
Spectrum - Geophysical			\$7,500	
ABC Liovin - Drilling			\$34,500	
AIS - Drum Disposal			\$1,750	
Asset Labs - Laboratory			\$211,000	
Eco-Rental or Pine - Equipment Rental - GPS, Methane Meter, H2S Meter, PID			\$4,750	
Statewide - Traffic Control			\$9,000	
Statewide - Traffic Plans			\$0	
Total Subcontractors/Suppliers				\$268,500
5. Other Direct Costs				\$20,100
6. General & Admin. Expense				\$0
7. Fee	10%			\$9,953
TOTAL COST AND FEE TO COMPLETE PROJECT				\$399,943.81
REMAINING BALANCE				(\$255,065.80)
TOTAL ESTIMATED AMENDMENT COST AND FEE				\$144,878.01

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$10.00	Parking	5	\$50.00
\$0.580	Mileage	1750	\$1,015.00
		3a. TOTAL	\$1,065.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$800.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$4,800.00	Oxnard Encroachment Permit	1	\$4,800.00
\$800.00	Ventura County Encroachment Permit	1	\$800.00
\$3,500.00	Caltrans Encroachment Permit	1	\$3,500.00
\$135.00	Oxnard Boring Permit	1	\$135.00
\$650.00	Ventura County Boring Permit	1	\$650.00
\$25.00	FedEx	6	\$150.00
\$75.00	PPE & Sampling Supplies (gloves, baggies, ice)	15	\$1,125.00
\$180.00	Lodging (Nights)	8	\$1,440.00
\$7,500.00	UPRR Related Fees (Access, Insurance)	1	\$7,500.00
		5. TOTAL	\$20,100.00
TYPE NAME AND TITLE			
Glenn Burks			
NAME OF FIRM		DATE OF SUBMISSION	
Group Delta		August 5, 2019	

TASK	DESCRIPTION	FIRM	Principal	Associate	Senior	Project	Staff	Technician	Draftsperson	Project Support	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$303.46	\$170.65	\$120.99	\$104.51	\$65.31	\$67.57	\$92.41	\$79.26				
TASK 5 - GEOTECHNICAL INVESTIGATION														
5.1	Geotechnical and Foundation Reports	Fugro	28	140	14	170	520	24	108	15	1,019	\$109,479	-\$65,712	\$43,767
5.1g	Extended Hazardous Materials Testing	Group Delta	28	140	14	170	520	24	108	15	1,019	\$109,479	-\$65,712	\$43,767
SUBTOTAL - Task 5 - Geotechnical Investigation			28	140	14	170	520	24	108	15	1,019	\$109,479	-\$65,712	\$43,767
SUBTOTAL Design Phase (Tasks 1 thru 6)			28	140	14	170	520	24	108	15	1,019	\$109,479	-\$65,712	\$43,767
SUBTOTAL Construction Phase (Task 7)			0	0	0	0	0	0	0	0	0	\$0	\$0	\$0
SUBTOTAL Other Direct Cost			0	0	0	0	0	0	0	0	0	\$21,965	-\$10,695	\$11,270
SUBTOTAL Subconsultants			0	0	0	0	0	0	0	0	0	\$268,500	-\$178,659	\$89,841
TOTAL			28	140	14	170	520	24	108	15	1,019	\$399,943.81	-\$255,065.80	\$144,878.01

GUIDA SURVEYING

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.580	Mileage	1800	\$1,044.00
		3a. TOTAL	\$1,044.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.15	Printing (8.5"x11" Black & White)	50	\$7.50
\$0.45	Printing (11"x17" Black & White)	50	\$22.50
\$0.55	Printing (8.5"x11" Color)	50	\$27.50
\$0.75	Printing (11"x17" Color)	50	\$37.50
	Full Color Presentation Exhibits		\$0.00
		5. TOTAL	\$95.00
TYPE NAME AND TITLE			
Ralph W. Guida IV, PLS			
NAME OF FIRM		DATE OF SUBMISSION	
Guida Surveying		August 5, 2019	

Guida Surveying

TASK	DESCRIPTION	FIRM	Principal Land Surveyor	Sr. Project Manager	Project Manager	Project Surveyor	Project Analyst	CADD Survey Technician	CADD Operator	PLS Party Chief (Union Field)	Chainman (Union Field)	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$369.11	\$260.14	\$185.93	\$182.80	\$147.64	\$101.95	\$97.88	\$161.43	\$160.93				
TASK 2 - PLAN PREPARATION															
2.1	65% PS&E SUBMITTAL	Various	0	0	4	4	4	4	0	4	4	24	\$3,843	\$0	\$3,843
2.1-1	Roadway Plans	WKE/Guida	0	0	4	4	4	4	0	4	4	24	\$3,843	\$0	\$3,843
2.1-1d	Project Controls	Guida			4	4	4	4		4	4	24	\$3,843		\$3,843
2.2	95% PS&E SUBMITTAL	Various	0	0	4	4	4	4	0	4	4	24	\$3,843	-\$1,588	\$2,255
2.2-1	Update Roadway Plans	WKE/Guida	0	0	4	4	4	4	0	4	4	24	\$3,843	-\$1,588	\$2,255
2.2-1d	Update Project Controls	Guida			4	4	4	4		4	4	24	\$3,843	-\$1,588	\$2,255
2.4	Right of Way Documentation and Engineering	Various	10	43	84	700	100	20	20	120	120	1217	\$218,098	-\$23	\$218,075
2.4-1	Activities	Various	10	43	84	700	100	20	20	120	120	1217	\$218,098	\$0	\$218,075
2.4-1f	Prepare Right-of-Way Appraisal Maps	Guida	2	6		260	20					288	\$52,779		\$52,779
2.4-1g	Prepare Acquisition Documents	Guida		6	40							46	\$8,998		\$8,998
2.4-1i	Prepare Director's Deed and Plats	Guida	2	6		190						198	\$37,031		\$37,031
2.4-1j	Prepare Utility Legal Description and Plat	Guida	2	6		250	20					278	\$50,951		\$50,951
2.4-1k	Prepare Parcel Files	Guida		6			20					26	\$4,514		\$4,514
2.4-1n	Prepare Right-of-Way Requirement Maps (PD-26)	Guida	2	6	40							48	\$9,736		\$9,736
2.4-1o	Additional Design Survey	Guida	2	7	4		40	20	20	120	120	333	\$54,088	-\$23	\$54,066
SUBTOTAL - Task 2 - Plan Preparation			10	43	92	708	108	28	20	128	128	1,265	\$225,783	-\$1,610	\$224,173
SUBTOTAL Design Phase (Tasks 1 thru 6)			10	43	92	708	108	28	20	128	128	1,265	\$225,783	-\$1,610	\$224,173
SUBTOTAL Construction Phase (Task 7)			0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0
SUBTOTAL Other Direct Cost			0	0	0	0	0	0	0	0	0	0	\$1,139	\$0	\$1,139
SUBTOTAL Subconsultants			0	0	0	0	0	0	0	0	0	0	\$13,190	-\$21,446	-\$8,256
TOTAL			10	43	92	708	108	28	20	128	128	1,265	\$240,111.98	-\$23,056.81	\$217,055.17

HAMNER, JEWELL AND ASSOCIATES

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.580	Mileage		\$0.00
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
	Printing (8.5"x11" Black & White)		\$0.00
	Printing (11"x17" Black & White)		\$0.00
	Printing (8.5"x11" Color)		\$0.00
	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
\$500.00	Postage and Delivery	1	\$500.00
\$15,000.00	Appraisal (Complex Industrial/AG)	11	\$165,000.00
\$15,000.00	Farming Expert Consultant	1	\$15,000.00
		5. TOTAL	\$180,500.00
TYPE NAME AND TITLE			
Lillian Jewell, President and Managing Senior Associate			
NAME OF FIRM		DATE OF SUBMISSION	
Hamner, Jewell & Associates		August 5, 2019	

TASK	DESCRIPTION	FIRM	Managing Senior Associate	Right of Way Agent (Sr II)	Right of Way Agent (Sr I)	Right of Way Agt II	Right of Way Agt I	Transaction Coordinators	Clerical Support	Project Coordinator	Project Administrator	TOTAL HOURS	COST TO COMPLETE	CREDIT	COST
Project Billing Rate (Burdened)		Project Average	\$252.77	\$164.75	\$117.07	\$0.00	\$0.00	\$95.79	\$47.20	\$108.75	\$0.00				
TASK 2 - PLAN PREPARATION															
2.4	Right of Way Documentation and Engineering	Various	0	420	0	0	0	0	0	0	0	420	\$69,197	-\$51,489	\$17,708
2.4-1	Activities	Various	0	420	0	0	0	0	0	0	0	420	\$69,197	\$0	\$69,197
2.4-1a	Perform Record Data Search	HJA		60								60	\$9,885		\$9,885
2.4-1b	Acquire Title Reports	HJA										0	\$0		\$0
2.4-1g	Prepare Acquisition Documents	HJA										0	\$0		\$0
2.4-1l	Prepare appraisals (appraisal costs provided in ODC Detail)	HJA		110								110	\$18,123		\$18,123
2.4-1p	Acquire Right of Entry Permits	HJA		250								250	\$41,189	\$0	\$41,188
2.4-2	Right of Way Acquisition	HJA										0	\$0	-\$51,489	-\$51,489
	SUBTOTAL - Task 2 - Plan Preparation		0	420	0	0	0	0	0	0	0	420	\$69,197	-\$51,489	\$17,708
SUBTOTAL Design Phase (Tasks 1 thru 6)													\$69,197	-\$51,489	\$17,708
SUBTOTAL Construction Phase (Task 7)													\$0	\$0	\$0
SUBTOTAL Other Direct Cost													\$180,500	-\$71,209	\$109,291
SUBTOTAL Subconsultants													\$0	\$0	\$0
TOTAL													\$249,696.72	-\$122,697.39	\$126,999.33

KIMLEY-HORN AND ASSOCIATES

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$10.00	Parking	10	\$100.00
\$0.580	Mileage	800	\$464.00
		3a. TOTAL	\$564.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
	Printing (8.5"x11" Black & White)		\$0.00
	Printing (11"x17" Black & White)		\$0.00
	Printing (8.5"x11" Color)		\$0.00
\$0.50	Printing (11"x17" Color)	50	\$25.00
\$2.00	Full Color Presentation Exhibits	50	\$100.00
		5. TOTAL	\$125.00
TYPE NAME AND TITLE			
NAME OF FIRM		DATE OF SUBMISSION	
Kimley Horn and Associates, Inc		August 5, 2019	

TASK	DESCRIPTION	FIRM	Principal in Charge	Project Manager	Sr. Professional 1	Professional 1	Professional 2	Professional 3	Project Support	Admin Support	Analyst	Sr. Professional 2	TOTAL HOURS	COST TO COMPLETE	CREDIT	COST
Project Billing Rate (Burdened)			Project Average	\$334.89	\$212.65	\$213.48	\$157.41	\$137.35	\$187.57	\$179.22	\$92.15	\$127.26	\$289.68			
TASK 2 - PLAN PREPARATION																
2.1	65% PS&E SUBMITTAL	Various	5	162	72	364	0	45	0	0	992	0	1640	\$243,471	\$0	\$243,471
2.1-3	Stage Construction, Detours, and TMP	KHA	4	97	72	234	0	0	0	0	592	0	999	\$149,508	\$0	\$149,508
2.1-3a	Transportation Management Plan	KHA	1	20		40					72		133	\$20,047		\$20,047
2.1-3b	Stage Construction (Plans, Details, and Quantities)	KHA	3	37	32	62	0	0	0	0	180	0	314	\$48,370	\$0	\$48,370
2.1-3b.1	Stage Construction CAS and Index	KHA	3	3		5					20		31	\$4,975		\$4,975
2.1-3b.2	Stage Construction Plans	KHA		20	22	30					110		182	\$27,670		\$27,670
2.1-3b.3	Stage Construction Details	KHA		6	5	15					25		51	\$7,886		\$7,886
2.1-3b.4	Stage Construction Quantity Sheets	KHA		8	5	12					25		50	\$7,839		\$7,839
2.1-3c	Traffic Handling Plan Detour (Plans and Quantities)	KHA		40	40	132					340		552	\$81,091		\$81,091
2.1-5	Sign Plans	KHA	0	25	0	50	0	0	0	0	190	0	265	\$37,365	\$0	\$37,365
2.1-5a	Sign Plans	KHA		15		20					110		145	\$20,336		\$20,336
2.1-5b	Sign Details	KHA		5		15					40		60	\$8,515		\$8,515
2.1-5c	Sign Quantities	KHA		5		15					40		60	\$8,515		\$8,515
2.1-6	Electrical Lighting, Signals	KHA/LIN	1	40	0	80	0	45	0	0	210	0	376	\$56,598	\$0	\$56,598
2.1-6a	Traffic Signals	KHA	1	40		80		45			210		376	\$56,598		\$56,598
2.2	95% PS&E SUBMITTAL	Various	3	70	7	154	0	0	0	0	511	0	745	\$106,654	-\$21,843.10	\$84,811
2.2-3	Update Stage Construction and Detours	KHA	2	40	7	76	0	0	0	0	314	0	439	\$62,592	-\$12,268	\$50,324
2.2-3a	Update Stage Construction (Plans, Details, and Quantities)	KHA	2	20	4	36	0	0	0	0	94	0	156	\$23,406	-\$5,820	\$17,585
2.2-3a-1	Update Stage Construction CAS and Index	KHA	2	4		4					10		20	\$3,423	-\$1,173	\$2,250
2.2-3a-2	Update Stage Construction Plans	KHA		10	2	20					50		82	\$12,065	-\$1,672	\$10,392
2.2-3a-3	Update Stage Construction Details	KHA		4	1	6					20		31	\$4,554	-\$1,649	\$2,905
2.2-3a-4	Update Stage Construction Quantity Sheets	KHA		2	1	6					14		23	\$3,365	-\$1,327	\$2,038
2.2-3b	Update Traffic Handling Plan Detour (Plans and Quantities)	KHA		20	3	40					220		283	\$39,186	-\$4,531	\$34,655
2.2-3c	Update Detour Traffic Signal and rail crossing	KHA											0	\$0	-\$1,917	-\$1,917
2.2-5	Update Sign Plans	KHA	0	9	0	41	0	0	0	0	97	0	147	\$20,712	-\$5,277	\$15,435
2.2-5a	Update Sign Plans	KHA		4		25					60		89	\$12,421	-\$2,653	\$9,768
2.2-5b	Update Sign Details	KHA		3		10					22		35	\$5,012	-\$1,470	\$3,542
2.2-5c	Update Sign Quantities	KHA		2		6					15		23	\$3,279	-\$1,153	\$2,125
2.2-6	Update Electrical Lighting, Signals	KHA/LIN	0	15	0	25	0	0	0	0	60	0	100	\$14,760	-\$2,182	\$12,579
2.2-6a	Update Traffic Signals	KHA		15		25					60		100	\$14,760	-\$2,182	\$12,579
2.2-15	Update TMP	KHA	1	6		12					40		59	\$8,590	-\$2,116	\$6,474

TASK	DESCRIPTION	FIRM	Principal in Charge	Project Manager	Sr. Professional 1	Professional 1	Professional 2	Professional 3	Project Support	Admin Support	Analyst	Sr. Professional 2	TOTAL HOURS	COST TO COMPLETE	CREDIT	COST
2.3	100% PS&E SUBMITTAL	Various	3	71	0	125	0	0	0	0	225	0	424	\$64,412	-\$70,131	-\$5,719
2.3-3	Final Stage Construction and Detours	KHA	2	40	0	75	0	0	0	0	152	0	269	\$40,325	-\$46,610	-\$6,285
2.3-3a	Final Stage Construction (Plans, Details, and Quantities)	KHA	2	20	0	35	0	0	0	0	72	0	129	\$19,595	-\$20,063	-\$469
2.3-3a.1	Final Stage Construction CAS and Index	KHA	2	3		2					5		12	\$2,259	-\$1,584	\$674
2.3-3a.2	Final Stage Construction Plans	KHA		10		20					40		70	\$10,365	-\$11,364	-\$999
2.3-3a.3	Final Stage Construction Details	KHA		5		8					15		28	\$4,231	-\$4,439	-\$208
2.3-3a.4	Final Stage Construction Quantity Sheets	KHA		2		5					12		19	\$2,739	-\$2,675	\$64
2.3-3b	Final Traffic Handling Plan Detour (Plans and Quantities)	KHA		20		40					80		140	\$20,730	-\$20,243	\$487
2.3-3c	Final Detour Traffic Signal and rail crossing	KHA											0	\$0	-\$6,303	-\$6,303
2.3-5	Final Sign Plans	KHA	0	13	0	22	0	0	0	0	45	0	80	\$11,954	-\$11,673	\$281
2.3-5a	Final Sign Plans	KHA		5		10					25		40	\$5,819	-\$5,682	\$137
2.3-5b	Final Sign Details	KHA		3		7					10		20	\$3,012	-\$2,942	\$71
2.3-5c	Final Sign Quantities	KHA		5		5					10		20	\$3,123	-\$3,050	\$73
2.3-6	Final Electrical Lighting, Signals	KHA/LIN	0	10	0	10	0	0	0	0	20	0	40	\$6,246	-\$6,099	\$147
2.3-6a	Final Traffic Signals	KHA		10		10					20		40	\$6,246	-\$6,099	\$147
2.3-12	Final Reports	WKE/KHA	1	8	0	18	0	0	0	0	8	0	35	\$5,888	-\$5,749	\$138
2.3-12a	Final Drainage Report	WKE											0	\$0		\$0
2.3-12b	Final SWDR	WKE											0	\$0		\$0
2.3-12c	Final TMP	KHA	1	8		18					8		35	\$5,888	-\$5,749	\$138
TASK 3 - SPECIFICATION PREPARATION																
3.1	Bid Specifications	Various	15	35	0	120	0	0	0	0	0	0	170	\$31,356	-\$13,013	\$18,343
3.1a	65% Specifications	Various	5	10		40							55	\$10,098		\$10,098
3.1b	95% Specifications	Various	5	20		60							85	\$15,372	-\$8,802	\$6,570
3.1c	100% Specifications	Various	5	5		20							30	\$5,886	-\$4,211	\$1,675
	SUBTOTAL - Task 3 - Specification Preparation		15	35	0	120	0	0	0	0	0	0	170	\$31,355.82	-\$13,013	\$18,343
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST																
4.1	Engineer's Estimate	Various	0	35	0	70	0	0	0	0	100	0	205	\$31,187	-\$13,916	\$17,272
4.1a	65% Engineer's Estimate	Various		10		40					40		90	\$13,513		\$13,513
4.1b	95% Engineer's Estimate	Various		20		20					40		80	\$12,491	-\$8,855	\$3,637
4.1c	100% Engineer's Estimate	Various		5		10					20		35	\$5,182	-\$5,061	\$122
4.1d	Alt 3a and 3b Engineer's Estimate	WKE											0	\$0		\$0
	SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost		0	35	0	70	0	0	0	0	100	0	205	\$31,187	-\$13,916	\$17,272
SUBTOTAL Design Phase (Tasks 1 thru 6)																
			26	373	79	833	0	45	0	0	1,828	0	3,184	\$477,080	-\$118,903	\$358,177
SUBTOTAL Construction Phase (Task 7)																
			0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0
SUBTOTAL Other Direct Cost																
			0	0	0	0	0	0	0	0	0	0	0	\$689	-\$409	\$280
SUBTOTAL Subconsultants																
			0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0
TOTAL																
			26	373	79	833	0	45	0	0	1,828	0	3,184	\$477,769.24	-\$119,311.61	\$358,457.63

KENNEDY/JENKS CONSULTANTS

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.580	Mileage	1500	\$870.00
		3a. TOTAL	\$870.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.12	Printing (8.5"x11" Black & White)	2,000	\$240.00
\$0.13	Printing (11"x17" Black & White)	240	\$31.20
\$0.25	Printing (8.5"x11" Color)		\$0.00
\$0.50	Printing (11"x17" Color)		\$0.00
\$2.70	Full Color Presentation Exhibits		\$0.00
\$0.60	Printing (24"x36" Bond)	240	\$144.00
\$5.70	Printing (24"x36" Mylar)	24	\$136.80
		5. TOTAL	\$552.00
TYPE NAME AND TITLE			
Jeff Savard, Vice President			
NAME OF FIRM		DATE OF SUBMISSION	
Kennedy/Jenks Consultants		July 30, 2019	

TASK	DESCRIPTION	FIRM	Engineer 8	Engineer 7	Engineer 6	Engineer 5	Engineer 3	Sr. CAD-Tech	Project Administrator	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)			Project Average	\$270.20	\$0.00	\$200.15	\$199.32	\$141.27	\$119.79	\$114.42			
TASK 2 - PLAN PREPARATION													
2.1	65% PS&E SUBMITTAL	Various	75	0	88	28	0	154	8	353	\$62,821	\$0	\$62,821
2.1-10	Utility Plans	WKE/KJC	75	0	88	28	0	154	8	353	\$62,821	\$0	\$62,821
2.1-10d	City Sewer Line	KJC	19		23	7		38	2	89	\$15,913		\$15,913
2.1-10e	City Water Line	KJC	37		44	14		78	4	177	\$31,395		\$31,395
2.1-10f	United Water Conservation District Water Line	KJC	19		21	7		38	2	87	\$15,513		\$15,513
2.2	95% PS&E SUBMITTAL	Various	92	0	113	36	0	198	9	448	\$79,398	-\$11,978	\$67,420
2.2-10	Update Utility Plans	WKE/KJC	92	0	113	36	0	198	9	448	\$79,398	-\$11,978	\$67,420
2.2-10d	City Sewer Line	KJC	23		30	9		50	2	114	\$20,231	-\$2,583	\$17,648
2.2-10e	City Water Line	KJC	46		56	18		98	5	223	\$39,536	-\$4,313	\$35,223
2.2-10f	United Water Conservation District Water Line	KJC	23		27	9		50	2	111	\$19,631	-\$3,657	\$15,973
2.2-10g	City 36" Sewer Line South of SR 34 (Optional)	KJC								0	\$0	-\$1,425	-\$1,425
2.3	100% PS&E SUBMITTAL	Various	38	0	49	16	0	88	4	195	\$34,263	-\$46,259	-\$11,996
2.3-10	Final Utility Plans	WKE/KJC	38	0	49	16	0	88	4	195	\$34,263	-\$46,259	-\$11,996
2.3-10d	City Sewer Line	KJC	11		12	5		22	1	51	\$9,120	-\$12,334	-\$3,214
2.3-10e	City Water Line	KJC	19		25	8		44	2	98	\$17,231	-\$15,357	\$1,874
2.3-10f	United Water Conservation District Water Line	KJC	8		12	3		22	1	46	\$7,911	-\$13,222	-\$5,311
2.3-10g	City 36" Sewer Line South of SR 34 (Optional)	KJC								0	\$0	-\$5,345	-\$5,345
	SUBTOTAL - Task 2 - Plan Preparation		205	0	250	80	0	440	21	996	\$176,482	-\$58,238	\$118,245

TASK	DESCRIPTION	FIRM	Engineer 8	Engineer 7	Engineer 6	Engineer 5	Engineer 3	Sr. CAD-Tech	Project Administrator	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
TASK 3 - SPECIFICATION PREPARATION													
3.1	Bid Specifications	Various	12	0	48	0	0	0	14	74	\$14,451	\$0	\$14,451
3.1a	65% Specifications	Various	6		24				8	38	\$7,340		\$7,340
3.1b	95% Specifications	Various	4		20				4	28	\$5,541		\$5,541
3.1c	100% Specifications	Various	2		4				2	8	\$1,570		\$1,570
	SUBTOTAL - Task 3 - Specification Preparation		12	0	48	0	0	0	14	74	\$14,451.40	\$0	\$14,451
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST													
4.1	Engineer's Estimate	Various	7	0	40	0	0	0	0	47	\$9,897	\$0	\$9,897
4.1a	65% Engineer's Estimate	Various	4		24					28	\$5,884		\$5,884
4.1b	95% Engineer's Estimate	Various	2		12					14	\$2,942		\$2,942
4.1c	100% Engineer's Estimate	Various	1		4					5	\$1,071		\$1,071
	SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost		7	0	40	0	0	0	0	47	\$9,897	\$0	\$9,897
	SUBTOTAL Design Phase (Tasks 1 thru 6)		224	0	338	80	0	440	35	1,117	\$200,831	-\$58,238	\$142,593
	SUBTOTAL Construction Phase (Task 7)		0	0	0	0	0	0	0	0	\$0	\$0	\$0
	SUBTOTAL Other Direct Cost		0	0	0	0	0	0	0	0	\$1,422	-\$659	\$763
	SUBTOTAL Subconsultants		0	0	0	0	0	0	0	0	\$0	\$0	\$0
	TOTAL		224	0	338	80	0	440	35	1,117	\$202,252.85	-\$58,896.65	\$143,356.20

LIN CONSULTANTS

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$20.00	Parking	3	\$60.00
\$0.580	Mileage	600	\$348.00
		3a. TOTAL	\$408.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
	Printing (8.5"x11" Black & White)		\$0.00
	Printing (11"x17" Black & White)		\$0.00
	Printing (8.5"x11" Color)		\$0.00
	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
		5. TOTAL	\$0.00
TYPE NAME AND TITLE			
William Sun/Vice President			
NAME OF FIRM		DATE OF SUBMISSION	
LIN Consulting, Inc.			

TASK	DESCRIPTION	FIRM	Principal	Senior Project Manager	Project Engineer	Assistant Engineer	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST ----- (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$204.77	\$186.03	\$95.94	\$61.52				
TASK 2 - PLAN PREPARATION										
2.1	65% PS&E SUBMITTAL	Various	12	50	114	50	226	\$25,772	\$0	\$25,772
2.1-6	Electrical Lighting, Signals	KHA, LIN	12	50	114	50	226	\$25,772	\$0	\$25,772
2.1-6b	Modifying Existing Electrical Systems	LIN	9	40	90	30	169	\$19,765		\$19,765
2.1-6c	Electrical System Details	LIN	2	6	16	16	40	\$4,045		\$4,045
2.1-6d	Electrical System Quantities	LIN	1	4	8	4	17	\$1,963		\$1,963
2.2	95% PS&E SUBMITTAL	WKE	8	26	78	38	150	\$16,296	-\$11,961	\$4,335
2.2-6	Update Electrical Lighting, Signals	KHA, LIN	8	26	78	38	150	\$16,296	-\$11,961	\$4,335
2.2-6b	Update Modifying Existing Electrical Systems	LIN	5	20	60	20	105	\$11,731	-\$8,886.88	\$2,845
2.2-6c	Update Electrical System Details	LIN	2	4	12	12	30	\$3,043	-\$1,761.44	\$1,282
2.2-6d	Update Electrical System Quantities	LIN	1	2	6	6	15	\$1,522	-\$1,313.00	\$209
2.3	100% PS&E SUBMITTAL	WKE	5	17	45	23	90	\$9,919	-\$8,244	\$1,675
2.3-6	Final Electrical Lighting, Signals	KHA, LIN	5	17	45	23	90	\$9,919	-\$8,244	\$1,675
2.3-6b	Final Modifying Existing Electrical Systems	LIN	3	12	33	11	59	\$6,689	-\$5,810	\$879
2.3-6c	Final Electrical System Details	LIN	1	3	8	8	20	\$2,023	-\$1,276	\$747
2.3-6d	Final Electrical System Quantities	LIN	1	2	4	4	11	\$1,207	-\$1,158	\$49
SUBTOTAL - Task 2 - Plan Preparation			25	93	237	111	466	\$51,987	-\$20,205	\$31,782

TASK	DESCRIPTION	FIRM	Principal	Senior Project Manager	Project Engineer	Assistant Engineer	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST ----- (Cost to Complete - Remaining Balance)
TASK 3 - SPECIFICATION PREPARATION										
3.1	Bid Specifications	WKE	20	38	0	0	58	\$11,164	-\$10,541	\$623
3.1a	65% Specifications	WKE	4	6			10	\$1,935		\$1,935
3.1b	95% Specifications	WKE	10	20			30	\$5,768	-\$8,685	-\$2,916
3.1c	100% Specifications	WKE	6	12			18	\$3,461	-\$1,857	\$1,604
	SUBTOTAL - Task 3 - Specification Preparation		20	38	0	0	58	\$11,164.43	-\$10,541	\$623
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST										
4.1	Engineer's Estimate	WKE	3	9	16	18	46	\$4,931	-\$2,796	\$2,135
4.1a	65% Engineer's Estimate	WKE	1	4	6	8	19	\$2,017		\$2,017
4.1b	95% Engineer's Estimate	WKE	1	3	6	6	16	\$1,708	-\$1,638	\$69
4.1c	100% Engineer's Estimate	WKE	1	2	4	4	11	\$1,207	-\$1,158	\$49
	SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost		3	9	16	18	46	\$4,931	-\$2,796	\$2,135
SUBTOTAL Design Phase (Tasks 1 thru 6)								\$68,083	-\$33,543	\$34,540
SUBTOTAL Construction Phase (Task 7)								\$0	\$0	\$0
SUBTOTAL Other Direct Cost								\$408	-\$444	-\$36
SUBTOTAL Subconsultants								\$0	\$0	\$0
TOTAL								\$68,490.51	-\$33,987.23	\$34,503.28

PACRIM ENGINEERING

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.580	Mileage	300	\$174.00
		3a. TOTAL	\$174.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.15	Printing (8.5"x11" Black & White on Bond)	1,000	\$150.00
\$0.45	Printing (11"x17" Black & White on Bond)	200	\$90.00
\$0.50	Printing (8.5"x11" Color on Bond)	200	\$100.00
\$1.00	Printing (11"x17" Color on Bond)	200	\$200.00
	Full Color Presentation Exhibits on Bond		\$0.00
		5. TOTAL	\$540.00
TYPE NAME AND TITLE			
Peter Liu, Principal			
NAME OF FIRM		DATE OF SUBMISSION	
PacRim Engineering Inc			

TASK	DESCRIPTION	FIRM	Principal Engr	Project Manager	Project Engr	Designer	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST ----- (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$300.73	\$213.92	\$144.48	\$105.72				
TASK 2 - PLAN PREPARATION										
2.1	65% PS&E SUBMITTAL	Various	12	24	60	60	156	\$23,755	\$0	\$23,755
2.1-9	Retaining Wall Plans	Various	12	24	60	60	156	\$23,755	\$0	\$23,755
2.1-9h	Retaining Wall 1 - Alternative 3B	PacRim	12	24	60	60	156	\$23,755		\$23,755
2.2	95% PS&E SUBMITTAL	Various	18	32	80	80	210	\$32,274	-\$118,478	-\$86,204
2.2-9	Update Retaining Wall Plans	Various	18	32	80	80	0	\$32,274	-\$118,478	-\$86,204
2.2-9b	Retaining Wall 1	PacRim					0	\$0	-\$54,596	-\$54,596
2.2-9e	Retaining Wall 4	WKE/PacRim					0	\$0	-\$29,693	-\$29,693
2.2-9f	Retaining Wall 5	WKE/PacRim					0	\$0	-\$34,189	-\$34,189
2.2-9h	Retaining Wall 1 - Alternative 3B	PacRim	18	32	80	80	210	\$32,274		\$32,274
2.3	100% PS&E SUBMITTAL	Various	1	2	3	4	10	\$1,585	-\$4,588	-\$3,003
2.3-9	Final Retaining Wall Plans	Various	1	2	3	4	10	\$1,585	-\$4,588	-\$3,003
2.3-9b	Retaining Wall 1	PacRim					0	\$0	-\$4,588	-\$4,588
2.3-9h	Retaining Wall 1 - Alternative 3B	PacRim	1	2	3	4	10	\$1,585		\$1,585
	SUBTOTAL - Task 2 - Plan Preparation		31	58	143	144	376	\$57,614	-\$123,066	-\$65,452

TASK	DESCRIPTION	FIRM	Principal Engr	Project Manager	Project Engr	Designer	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
TASK 3 - SPECIFICATION PREPARATION										
3.1	Bid Specifications	Various	12	48	20	0	80	\$16,767	-\$15,471	\$1,296
3.1a	65% Specifications	Various	2	8	4		14	\$2,891		\$2,891
3.1b	95% Specifications	Various	8	32	8		48	\$10,407	-\$11,571	-\$1,164
3.1c	100% Specifications	Various	2	8	8		18	\$3,469	-\$3,900	-\$431
	SUBTOTAL - Task 3 - Specification Preparation		12	48	20	0	80	\$16,766.56	-\$15,471	\$1,296
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST										
4.1	Engineer's Estimate	Various	9	44	48	60	161	\$25,397	-\$53,074	-\$27,677
4.1a	65% Engineer's Estimate	Various	3	8	8	12	31	\$5,038		\$5,038
4.1b	95% Engineer's Estimate	Various	3	24	24	32	83	\$12,887	-\$43,565	-\$30,678
4.1c	100% Engineer's Estimate	Various	3	12	16	16	47	\$7,472	-\$9,509	-\$2,036
4.1d	Alt 3a and 3b Engineer's Estimate	WKE					0	\$0		\$0
	SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost		9	44	48	60	161	\$25,397	-\$53,074	-\$27,677
	SUBTOTAL Design Phase (Tasks 1 thru 6)		52	150	211	204	617	\$99,778	-\$191,611	-\$91,833
	SUBTOTAL Construction Phase (Task 7)		0	0	0	0	0	\$0	\$0	\$0
	SUBTOTAL Other Direct Cost		0	0	0	0	0	\$714	-\$1,398	-\$684
	SUBTOTAL Subconsultants		0	0	0	0	0	\$0	\$0	\$0
	TOTAL		52	150	211	204	617	\$100,491.77	-\$193,008.68	-\$92,516.91

PADRE

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking	0	\$0.00
\$0.545	Mileage	0	\$0.00
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.12	Printing (8.5"x11" Black & White)	0	\$0.00
\$0.13	Printing (11"x17" Black & White)	0	\$0.00
\$0.25	Printing (8.5"x11" Color)	0	\$0.00
\$0.50	Printing (11"x17" Color)	0	\$0.00
\$2.70	Full Color Presentation Exhibits	0	\$0.00
\$0.60	Printing (24"x36" Bond)	0	\$0.00
\$5.70	Printing (24"x36" Mylar)	0	\$0.00
		5. TOTAL	\$0.00
TYPE NAME AND TITLE			
Jeff Savard,Vice President			
NAME OF FIRM		DATE OF SUBMISSION	
Padre Associates, Inc.			

TASK	DESCRIPTION	FIRM	Principal Professional	Senior Professional	Project Professional	Drafting	Word Processing	0.00	0.00	0.00	0.00	TOTAL HOURS	COST TO COMPLETE	REMAINING BALANCE	AMENDMENT COST (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$160.00	\$140.00	\$110.00	\$70.00	\$60.00	\$0.00	\$0.00	\$0.00	\$0.00				
TASK 2 - PLAN PREPARATION															
2.1	65% PS&E SUBMITTAL	Various	0	0	0	0	0	0	0	0	0	0	\$0	-\$5	-\$5
2.1-10	Utility Plans	WKE/KJC	0	0	0	0	0	0	0	0	0	0	\$0	\$0	-\$5
2.1-10i	Well Abandonment Work Plan/Site Health & Safety Plan/Permitting	Padre										0	\$0	-\$5	-\$5
SUBTOTAL - Task 2 - Plan Preparation			0	0	0	0	0	0	0	0	0	0	\$0	-\$5	-\$5
SUBTOTAL Design Phase (Tasks 1 thru 6)													\$0	-\$5	-\$5
SUBTOTAL Construction Phase (Task 7)													\$0	\$0	\$0
SUBTOTAL Other Direct Cost													\$0	\$0	\$0
SUBTOTAL Subconsultants													\$0	\$0	\$0
TOTAL													\$0.00	-\$5.00	-\$5.00

TATSUMI AND PARTNERS

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$10.00	Parking	4	\$40.00
\$0.580	Mileage	200	\$116.00
		3a. TOTAL	\$156.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.05	Printing (8.5"x11" Black & White on Bond)	50	\$2.50
\$0.10	Printing (11"x17" Black & White on Bond)	100	\$10.00
\$0.45	Printing (8.5"x11" Color on Bond)	20	\$9.00
\$0.90	Printing (11"x17" Color on Bond)	50	\$45.00
\$9.00	Full Color Presentation Exhibits on Bond	8	\$72.00
		5. TOTAL	\$138.50
TYPE NAME AND TITLE			
David Tatsumi, President			
NAME OF FIRM		DATE OF SUBMISSION	
Tatsumi and Partners, Inc.			

TASK	DESCRIPTION	FIRM	Senior Principal	Senior Associate	Associate	Senior Technical Staff	Technical Staff	Landscape Staff	TOTAL HOURS	COST TO COMPLETE	Remaining Balance	Amendment Cost (Cost to Complete - Remaining Balance)
Project Billing Rate (Burdened)		Project Average	\$281.63	\$155.60	\$134.24	\$117.46	\$111.36	\$92.37				
TASK 2 - PLAN PREPARATION												
2.1	65% PS&E SUBMITTAL	Various	10	0	110	184	236	104	644	\$74,043	\$0	\$74,043
2.1-2	Drainage Plans	WKE/Tatsumi	8	0	46	46	58	36	194	\$23,255	\$0	\$23,255
2.1-2d	Erosion Control Plans	Tatsumi	8		46	46	58	36	194	\$23,255		\$23,255
2.1-7	Irrigation Plans	Tatsumi	0	0	32	90	114	60	296	\$32,504	\$0	\$32,504
2.1-7a	Irrigation Removals	Tatsumi			12	28	46	16	102	\$11,340		\$11,340
2.1-7b	Irrigation Plans	Tatsumi			12	46	52	36	146	\$15,770		\$15,770
2.1-7c	Irrigation Quantities	Tatsumi			8	16	16	8	48	\$5,394		\$5,394
2.1-8	Bridge Plans (Unchecked Details)	WKE/Tatsumi	1	0	16	24	32	4	77	\$9,141	\$0	\$9,141
2.1-8b	Aesthetics Structures Details	Tatsumi	1		16	24	32	4	77	\$9,141		\$9,141
2.1-9	Retaining Wall Plans	Various	1	0	16	24	32	4	77	\$9,141	\$0	\$9,141
2.1-9g	Aesthetics Wall Details	Tatsumi	1		16	24	32	4	77	\$9,141		\$9,141
2.2	95% PS&E SUBMITTAL	Various	3	0	30	96	106	52	287	\$32,236	-\$85,322	-\$53,087
2.2-2	Update Drainage Plans	WKE/Tatsumi	1	0	8	24	24	8	65	\$7,506	-\$19,891	-\$12,385
2.2-2d	Update Erosion Control Plans	Tatsumi	1		8	24	24	8	65	\$7,506	-\$19,891	-\$12,385
2.2-7	Update Irrigation Plans	Tatsumi	0	0	6	36	52	28	122	\$13,131	-\$36,797	-\$23,666
2.2-7a	Update Irrigation Removals	Tatsumi			1	12	16	8	37	\$3,984	-\$12,264	-\$8,279
2.2-7b	Update Irrigation Plans	Tatsumi			4	20	28	16	68	\$7,322	-\$18,872	-\$11,550
2.2-7c	Update Irrigation Quantities	Tatsumi			1	4	8	4	17	\$1,824	-\$5,661	-\$3,837
2.2-8	Update Bridge Plans	WKE/Tatsumi	1	0	8	18	12	8	47	\$5,465	-\$12,081	-\$6,616
2.2-8b	Update Aesthetics Structures Details	Tatsumi	1		8	18	12	8	47	\$5,465	-\$12,081	-\$6,616
2.2-9	Update Retaining Wall Plans	Various	1	0	8	18	18	8	53	\$6,133	-\$16,554	-\$10,420
2.2-9g	Update Aesthetics Wall Details	Tatsumi	1		8	18	18	8	53	\$6,133	-\$16,554	-\$10,420
2.3	100% PS&E SUBMITTAL	Various	1	0	17	44	34	32	128	\$14,154	-\$13,651	\$503
2.3-2	Final Drainage Plans	WKE/Tatsumi	0	0	8	12	8	8	36	\$4,033	-\$3,890	\$143
2.3-2c	Final Erosion Control Plans	Tatsumi			8	12	8	8	36	\$4,033	-\$3,890	\$143
2.3-7	Final Irrigation Plans	Tatsumi	0	0	4	16	12	12	44	\$4,741	-\$4,573	\$168
2.3-7a	Final Irrigation Removals	Tatsumi			1	6	4	4	15	\$1,614	-\$1,557	\$57
2.3-7b	Final Irrigation Plans	Tatsumi			2	6	8	8	24	\$2,523	-\$2,433	\$90
2.3-7c	Final Irrigation Quantities	Tatsumi			1	4			5	\$604	-\$583	\$21
2.3-8	Final Bridge Plans	WKE/Tatsumi	0	0	4	8	8	6	26	\$2,862	-\$2,760	\$102
2.3-8b	Final Aesthetics Structures Details	Tatsumi			4	8	8	6	26	\$2,862	-\$2,760	\$102
2.3-9	Final Retaining Wall Plans	Various	1	0	1	8	6	6	22	\$2,518	-\$2,428	\$89
2.3-9g	Final Aesthetics Wall Details	Tatsumi	1		1	8	6	6	22	\$2,518	-\$2,428	\$89
	SUBTOTAL - Task 2 - Plan Preparation		14	0	157	324	376	188	1,059	\$120,432	-\$98,974	\$21,459

TASK	DESCRIPTION	FIRM	Senior Principal	Senior Associate	Associate	Senior Technical Staff	Technical Staff	Landscape Staff	TOTAL HOURS	COST TO COMPLETE	Remaining Balance	Amendment Cost (Cost to Complete - Remaining Balance)
TASK 3 - SPECIFICATION PREPARATION												
3.1	Bid Specifications	Various	0	0	28	24	14	14	80	\$9,290	-\$8,960	\$330
3.1a	65% Specifications	Various			6	2	2	2	12	\$1,428		\$1,428
3.1b	95% Specifications	Various			12	14	8	8	42	\$4,805	-\$6,012	-\$1,206
3.1c	100% Specifications	Various			10	8	4	4	26	\$3,057	-\$2,948	\$109
	SUBTOTAL - Task 3 - Specification Preparation		0	0	28	24	14	14	80	\$9,289.99	-\$8,960	\$330
TASK 4 - ENGINEER'S ESTIMATE OF PROBABLE COST												
4.1	Engineer's Estimate	Various	0	0	8	16	28	18	70	\$7,554	-\$7,286	\$268
4.1a	65% Engineer's Estimate	Various			4	10	16	10	40	\$4,317		\$4,317
4.1b	95% Engineer's Estimate	Various			2	4	10	4	20	\$2,181	-\$6,268	-\$4,086
4.1c	100% Engineer's Estimate	Various			2	2	2	4	10	\$1,056	-\$1,018	\$38
	SUBTOTAL - Task 4 - Engineer's Estimate of Probable Cost		0	0	8	16	28	18	70	\$7,554	-\$7,286	\$268
	SUBTOTAL Design Phase (Tasks 1 thru 6)		14	0	193	364	418	220	1,209	\$137,276	-\$115,219	\$22,057
	SUBTOTAL Construction Phase (Task 7)		0	0	0	0	0	0	0	\$0	\$0	\$0
	SUBTOTAL Other Direct Cost		0	0	0	0	0	0	0	\$295	-\$716	-\$422
	SUBTOTAL Subconsultants		0	0	0	0	0	0	0	\$0	\$0	\$0
	TOTAL		14	0	193	364	418	220	1,209	\$137,570.72	-\$115,935.55	\$21,635.17

THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Third Amendment ("Third Amendment") to the Professional Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 6 day of July, 2021 by and between the City of Oxnard, a municipal corporation ("City"), and WKE, Inc. ("Consultant"). This Third Amendment amends the Agreement entered into on July 24, 2018, by City and Consultant. The Agreement previously has been amended on June 4, 2019, by a First Amendment, and on April 21, 2020, by a Second Amendment.

City and Consultant agree as follows:

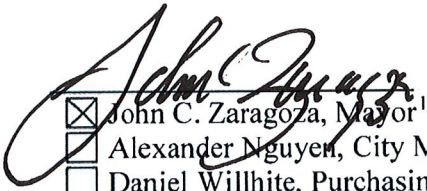
1. In Section 1 of the Agreement, Exhibits A, A-1 and A-2 are supplemented by Exhibit A-3, which is attached hereto and incorporated herein by reference.
2. In Section 8 of the Agreement, Exhibit B is deleted and hereby replaced by Exhibit B-1.
3. In Section 14(a) of the Agreement, the figure "8,909,080.94," is deleted and hereby replaced by the figure, "9,005,397.70."
4. In Section 14(b) of the Agreement, Exhibits C, C-1, and C-2 are supplemented by Exhibit C-3, which is attached hereto and incorporated herein by reference.
5. 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

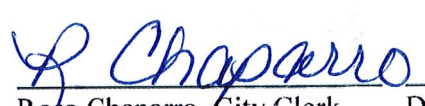
WKE, Inc.

 7-6-21
☒ John C. Zaragoza, Mayor¹ Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Manager

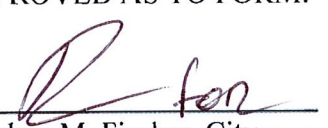
 5/18/21
 Wei Koo, President Date

 May 18, 2021
 Carlos Cadena Date
 Senior Vice President

ATTEST:

 7/6/21
 Rose Chaparro, City Clerk Date
 (only if Mayor signs)

APPROVED AS TO FORM:

 5-26-21
 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.

EXHIBIT A-3

SCOPE OF SERVICES

The project scope of this Agreement is to complete Plans, Specifications & Estimates (PS&E), including right of way engineering of the Rice Avenue at Fifth Street/State Route 34 Grade Separation. As part of a Cooperative Agreement between the City and Caltrans, Caltrans is providing right of way acquisition, while the City, through its Consultant is providing right of way engineering. Since Caltrans will acquire property in their name, additional requirements are necessary, including aerial easement appraisals for Union Pacific Railroad right of way, independent review of all appraisals, review of two farmland studies, additional geotechnical testing, and development of a hazardous material Human Health Risk Assessment document. This scope, described in more detail in Exhibit C-2 will satisfy these requirements.

EXHIBIT B-1

SCHEDULE OF SERVICES

Activity	Proposed Date
A. Begin Work	July 2018
B. Draft PS&E	
B.1 Submit (65%) PS&E Alternative 2A	March 2019
B.2 Submit (65%) PS&E Alternative 2B	June 2020
B.3 Submit Initial (95%) PS&E Alternative 2B	March 2021
C. Submit Final PS&E (100%) Alternative 2B	October 2021
D. Ready to List (delay due to Right of Way)	July 2022
E. Advertise	July 2022
F. Award	December 2022
G. Begin Construction	December 2022
H. Completion of Construction	August 2026
I. Project Close Out	December 2026



**Exhibit C-3
COMPENSATION RATES**

April 12, 2021

Ms. Debbie O'Leary
Project Manager
City of Oxnard
305 West Third Street, 3rd Floor
Oxnard, CA 93030

Subject: Contract Modification to Contract No. A-8094 – Amendment 3
Out-of-Scope Engineering Services for
Rice Avenue Grade Separation over Fifth Street/UPRR

Dear Debbie,

We are requesting your approval to proceed with additional services required to complete the PS&E for the proposed improvements for the Rice Avenue Grade Separation Project. These design right-of-way related changes are beyond the scope of services identified in the original contract and are required for Caltrans to proceed with the Right-of-Way acquisition process. The additional services are discussed in more detail in the Scope of Services included with this proposal.

Item No. 1 - Task 2.4-1f – Southern California Edison (SCE) Easements Appraisal Maps and Legal Descriptions

Acquisition documents are needed for three new utility easements within PEGH Investments LLC, Seminis Vegetable Seeds Inc., and Hiji Bros & Nishimori Bros properties to allow for SCE power pole relocations.

Item No. 2 - Task 2.4-1g –Acquisition Documents - Independent Farmland Study Review and Eleven (11) Independent Appraisal Reviews

An independent farmland study review will be conducted as requested by Caltrans. An independent review of 11 appraisals will be completed as requested by Caltrans.

Item No. 3 - Task 2.4-1I – Prepare Union Pacific Railroad (UPRR) Appraisals

A UPRR right of way appraisal requested by Caltrans is needed to complete UPRR agreements for aerial easements.

Item No. 4 - Task 5.1b - Percolation Testing

Additional percolation tests are needed within the Hailwood farmland property to assess the permeability for the proposed infiltration basins.

Item No. 5 - Task 5.1f - Hazardous Materials – Human Health Risk Assessment (HHRA)

A HHRA report will be completed to determine opportunities to reduce the removal contaminated material from the project site and lower the construction cost of the project.

The following table summarizes cost associated with each task listed in the attached Scope of Work and Cost Proposal.

Item No.	Task No.	Description	Fee
1	Task 2.4-1f	SCE Easements Appraisal Maps and Legal Descriptions	\$5,950.22
2	Task 2.4-1g	1. Independent Review of Farmland Study 2. Eleven (11) Independent Appraisal Reviews	\$6,000.00 \$12,100.00
3	Task 2.4-1l	Union Pacific Railroad (UPRR) Appraisals	\$15,000.00
4	Task 5.1b	Percolation Testing	\$12,343.61
5	Task 5.1f	Human Health Risk Assessment (HHRA)	\$34,916.98
6	Task 1.1.6	UPRR Funding Support	\$10,005.95
TOTAL			\$96,316.76

Please contact me at (714) 955-7186 if you have any questions or require additional information,

Sincerely,



Carlos Cadena
Project Manager

SCOPE OF SERVICES

Scope of Services

Item No. 1 - Task 2.4-1f – Prepare SCE Easement Appraisal Maps and Legal Descriptions

Consultant will provide three (3) additional SCE Easements including the PD-26 updates, appraisal maps and legal descriptions.

Item No. 2 - Task 2.4-1g – Prepare Acquisition Documents–

Task 2.4-1g-1 Independent Review of Farmland Study

Consultant will perform a review of the farmland study completed by the owner of the Hailwood property related to the relocation of wells and farm re-configuration that accommodate project impacts.

Task 2.4-1g-2 Independent Appraisal Review

Consultant will perform a review of 11 appraisal reports provided by Joyce Riggs of Riggs and Riggs, Inc. ("Riggs") which must be reviewed by a qualified review appraiser to meet Caltrans requirements.

Item No. 3 - Task 2.4-1I – UPRR Appraisals

Consultant will prepare appraisals the property (APN: 216-0-160-165) owned by the Union Pacific Railroad ("UPRR").

Item No. 4 - Task 5.1b - Percolation Testing

Consultant will perform four bore hole infiltration tests that will provide additional needed information to assess the permeability of the surrounding area.

Task 5.1b-1 – Data Review, Pre-Field Planning, and Utility Clearance

Initial services for this task will consist of project setup, reviewing existing project reports, and contacting Underground Service Alert (USA) so their subscribers (utility operators) can locate, and mark buried utilities that could be impacted by the proposed exploration activities. We will also meet with representatives of the property owner relative to utilities that serve the agricultural operations and the proposed test locations.

Task 5.1b-2 – Field Percolation Testing

Our proposed work scope will consist of performing a total of four (4) additional borehole infiltration tests. The percolation testing will be performed in hand-excavated boreholes, using the methods and procedures employed in the previous testing. Depth intervals for the infiltration tests will generally correspond to the bottom of the proposed basins as noted above (EL.+ 46.5 feet and EL. + 48.5 feet, respectively). As a result, we expect the test holes will extend to a depth of 10 feet or less and will be backfilled with the excavated soil cuttings upon completion of the testing.

Consultant will log the soil materials encountered in the test holes in accordance with ASTM D 2488 and the Unified Soil Classification System (USCS). Bulk samples of the excavated material will be collected from the test interval zone.

Task 5.1b-3 – Geotechnical Laboratory Testing

Geotechnical laboratory testing will be performed on bulk samples collected from the test intervals.

Table 1: Preliminary Scope of Laboratory Testing

Laboratory Test	Preliminary Quantity
Sieve and Hydrometer Analysis	4
Atterberg Limit	4

Task 5.1b-4 – Infiltration Reporting

Following completion of all field and lab work, Consultant will tabulate the percolation data, calculate applicable infiltration rates, and summarize the results in a supplemental letter. The letter will detail the following:

- Test methods,
- Test location and percolation test hole construction,
- Percolation testing and test results,
- Infiltration rate calculations, and
- Laboratory testing.

Item No. 5 - Task 5.1f – Human Health Risk Assessment (HHRA)

Consultant has detected relatively high pesticide concentrations in soil at the site. Those detected pesticides are the only chemical of concern. Soils on Caltrans Right-of-Way along with any hazardous soil will likely be removed and managed separately.

Consultant will use the results of the HHRA to select management options for non-hazardous pesticide impacted soil so that Consultant can determine the most cost-effective risk-control option for the site. Consultant will use the services of Enviro-Tox Services, Inc. (ETSI). Heriberto Robles Ph.D., Diplomat of the American Board of Toxicology, will serve as the toxicologist and risk assessor for the assessment.

ETSI proposes to conduct a HHRA for subject property. ETSI believes the assessment would be beneficial to (1) determine whether residual pesticides remaining in soil represent a threat to human health; (2) provide a basis for determining residual chemical levels that are adequately protective of public health, and; (3) determine whether risk-control measures should be implemented to protect future occupants of the site.

Specifically, the risk assessment will evaluate the potential for pesticides associated with the site to cause adverse effects on human health. The HHRA will evaluate potential health risks that could result from impacted soil reuse under three different soil reuse scenarios including:

- Unrestricted soil reuse
- Impacted soil reuse under one foot of clean soil, and;
- Impacted soil reuse under pavement structure.

Risk assessment results can then be used by Consultant and WKE when considering appropriate risk management options (if any) for the site. Examples of risk management options that could be considered include no special management required, burial under clean soil, burial under pavement, or excavation and offsite disposal.

The risk assessment to be conducted for the subject property will evaluate human exposure to chemical residue by utilizing standard equations and methods developed by the U. S. Environmental Protection Agency (USEPA) and the California Environmental Protection Agency (Cal-EPA) for similar exposure conditions. Site-specific information regarding land use and receptors will be used to quantify exposures to the media of concern. A fate and transport

assessment will be performed concurrent with the risk assessment. The fate and transport model will be conducted to assess: (1) whether pesticide-impacted dust is likely to impact ambient air at the site, and (2) the degree and magnitude (if any) of potential impacts.

The risk assessment will include the selection of chemicals of potential concern (COPCs), use of critical toxicity factors (i.e., reference doses [RfDs] for non-carcinogens and slope factors for carcinogens) in estimating potential health risks. RfDs and cancer slope factors developed by the Cal-EPA and the USEPA will be used for estimating potential health risks.

A report detailing the results of this risk assessment will be prepared in a straightforward format. The report will include the justification for the selection of exposure pathways and assumptions necessary to support the estimation of potential risk. It is anticipated that a draft HHRA report will be prepared and submitted initially to Consultant for review. The report will then be submitted to Caltrans for review and comment.

The scope assumes that any regulatory oversight necessary for approval of the HHRA will be through Ventura County and not the Department of Toxic Substances Control (DTSC).

Item No. 6 - Task 1.1.6 – UPRR Funding Support

Overview

This is a federally funded project and UPRR's share and under the applicable provisions of Section 646.210 of the CFR Title 23 Highway will be 5% of the estimated cost of theoretical structure and approaches.

"646.210(c)(1); Where a grade crossing is eliminated by grade separation, the structure and approaches required to transition to a theoretical highway profile which would have been constructed if there were no railroad present, for the number of lanes on the existing highway and in accordance with the current design standards of the appropriate state highway agency."

"646.210(c)(2) Where another facility, such as highway or waterway, requiring bridge structure is located within the limits of a grade separation project, the estimated cost of theoretical structure and approaches as described in 23 CFR 646.210(c)(1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or the highway."

The limits of theoretical structure and approaches for this project are essentially Rice Avenue for the number of lanes on the existing highway with current highway design standards of the State Highway Agency from touchdown on the north to the touchdown on the south with a bridge crossing over only the UPRR right of way and includes preliminary engineering, right of way and construction within the limits of the theoretical structure and approaches.

Task 1- UPRR COST SHARING

The cost sharing participation by UPRR for this project will be estimated by comparing the total project quantities for all project bid items and determining that portion of each bid item that fall within the eligible theoretical structure and approaches limits that are considered RR participating and non-participating.

1. Prepare an exhibit of the limits theoretical structure and approach ligible for UPRR cost sharing. Said exhibit to be reviewed and accepted by the project sponsors.
2. Prepare an excel spread sheet listing the total project cost including preliminary engineering, right of way and construction costs within the theoretical structure and approach limits. The construction costs for RR participating and non-participating

work will be included in excel spread sheet reflecting contract bid items and item costs.

3. Prepare a written summary documenting justification for the determination of RR participating and non-participating project costs, preliminary engineering, right of way and construction within the limits of the theoretical structure and approaches.

Deliverables.

- Exhibit defining limits of theoretical structure and approach limits eligible for UPRR cost sharing.
- Final Engineer's Estimated of project costs, RR participating and non-participating costs in excel spread sheet format.
- Written summary documenting justifications for RR participating and non-participating project costs.

These documents are intended to be utilized by the Agency in their negotiations with the UPRR Railroad for the Railroad's 5% estimated cost of theoretical structure and approaches.

WKE shall provide the preliminary engineering and right of way costs within the limits of the theoretical structure and approaches, including individual quantity determinations and unit prices for the theoretical structure and approach limits eligible for UPRR cost sharing. These bid items and unit costs shall correspond to the Engineers Estimate developed for the project.

GUIDA

Task 1

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.545	Mileage 24 days 50 miles each way from LA		\$0.00
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.15	Printing (8.5"x11" Black & White)		\$0.00
\$0.45	Printing (11"x17" Black & White)		\$0.00
\$0.55	Printing (8.5"x11" Color)		\$0.00
\$0.75	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
		5. TOTAL	\$0.00
TYPE NAME AND TITLE		SIGNATURE	
Tim Fettig, PLS			
NAME OF FIRM		DATE OF SUBMISSION	
Guida Surveying			

HAMNER, JEWELL & ASSOCIATES

Tasks 2 & 3

FUGRO

Task 4

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$520.00	Well Materials Storage	1	\$520.00
\$750.00	Water Tank	1	\$750.00
\$1,420.00	Lab Testing	1	\$1,420.00
		5. TOTAL	\$2,690.00
TYPE NAME AND TITLE			
NAME OF FIRM		DATE OF SUBMISSION	
Fugro		January 25, 2021	

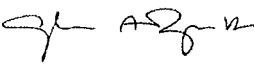
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TASK	DESCRIPTION	FIRM	Principal	Associate	Senior	Senior Project	Project	Senior Staff	Staff	Staff GIS	TOTAL HOURS	COST TO COMPLETE
		Project Billing Rate (Burdened)	Project Average	\$244.98	\$201.54	\$170.55	\$159.99	\$137.20	\$119.26	\$105.05	\$151.23	
5.1b	Percolation Testing (4 Locations)			5	0	6	5	0	0	60	2	\$9,654
5.1f	Additional Percolation Testing	Fugro		5	0	6	5	0	0	60	2	\$9,654
	SUBTOTAL - Task 5 - Geotechnical Investigation			5	0	6	5	0	0	60	2	\$9,654
	TOTAL			5	0	6	5	0	0	60	2	\$9,653.61

GROUP DELTA

Task 5

CONTRACT PRICING PROPOSAL				
City of Oxnard - Rice Avenue Grade Separation at Fifth Street/UPRR Tracks				
Name of Proposer			DIVISIONS/LOCATIONS	
Group Delta			Environmental	
Home Office Address			CONTRACT NO.	
32 Mauchly, Suite B, Irvine, CA 92618				
Services to be Performed			TOTAL AMOUNT OF PROPOSAL	
Additional Testing for Hazardous Materials - Human Health Risk Assessment (HHRA)			\$34,916.98	
DETAILED DESCRIPTION OF COST ELEMENTS				
1. Direct Labor (Specify)	Estimated Hours	Rate/Hour	Est. Cost (\$)	Total Est. Cost
Principal	10	\$91.00	\$910	
Associate	20	\$63.47	\$1,269	
Senior	20	\$45.00	\$900	
Project	0	\$38.87	\$0	
Staff	26	\$31.73	\$825	
Technician	0	\$32.57	\$0	
Draftsperson	4	\$34.37	\$137	
Project Support	0	\$29.48	\$0	
	0	\$0.00	\$0	
Labor Cost	80		\$4,042	
Escalation	3%	Per 10-H	\$121	
Total Direct Labor				\$4,163
2. Labor Overhead Rate	Rate			
	137.30%			
				\$5,716
3. Travel			Est. Cost (\$)	
a. Transportation			\$0	
b. Per Diem or Subsistence			\$0	
Total Travel				\$0
4. Subcontractors/Suppliers			Est. Cost (\$)	
Spectrum - Geophysical			\$0	
ABC Liovin - Drilling			\$0	
AIS - Drum Disposal			\$0	
Asset Labs - Laboratory			\$0	
Eco-Rental or Pine - Equipment Rental - GPS, Methane Meter, H2S Meter, PID			\$0	
Statewide - Traffic Control			\$0	
Statewide - Traffic Plans			\$0	
Enviro-Tox Services, Inc. (Board certified toxicologist and risk assessor)			\$24,000	
Total Subcontractors/Suppliers				\$24,000
5. Other Direct Costs				\$50
6. General & Admin. Expense				\$0
7. Fee	10%			\$988
TOTAL COST AND FEE TO COMPLETE PROJECT				\$34,916.98

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
\$10.00	Parking	0	\$0.00
\$0.580	Mileage	0	\$0.00
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$4,800.00	Oxnard Encroachment Permit	0	\$0.00
\$800.00	Ventura County Encroachment Permit	0	\$0.00
\$3,500.00	Caltrans Encroachment Permit	0	\$0.00
\$135.00	Oxnard Boring Permit	0	\$0.00
\$650.00	Ventura County Boring Permit	0	\$0.00
\$25.00	FedEx	2	\$50.00
\$75.00	PPE & Sampling Supplies (gloves, baggies, ice)	0	\$0.00
\$180.00	Lodging (Nights)	0	\$0.00
\$7,500.00	UPRR Related Fees (Access, Insurance)	0	\$0.00
		5. TOTAL	\$50.00
TYPE NAME AND TITLE Glenn Burks, PhD, PE - Principal & Director of Environmental Services 			
NAME OF FIRM		DATE OF SUBMISSION	
Group Delta		November 2, 2020	

[illegible]

DOUGLAS ENGINEERING

Task 6

CONTRACT PRICING PROPOSAL			
SUPPORTING SCHEDULE			
ITEM NO.	ITEM DESCRIPTION	NUMBER	EST. COST (\$)
3a. Travel - Transportation			
	Parking		\$0.00
\$0.545	Mileage	0	\$0.00
		3a. TOTAL	\$0.00
3b. Travel - Per Diem or Subsistence	Subsistence (Meals)	3b. TOTAL	\$0.00
5. Other Direct Costs			
Unit Cost	Reproduction	Number	
\$0.10	Printing (8.5"x11" Black & White)	0	\$0.00
	Printing (11"x17" Black & White)		\$0.00
	Printing (8.5"x11" Color)		\$0.00
	Printing (11"x17" Color)		\$0.00
	Full Color Presentation Exhibits		\$0.00
		5. TOTAL	\$0.00
TYPE NAME AND TITLE		SIGNATURE	
Douglas H Mays, President			
NAME OF FIRM		DATE OF SUBMISSION	
Douglas Engineering		April 12, 2021	

Douglas Engineering												
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Project Billing Rate (Burdened) for 1/1/18 to 12/13/19												

FOURTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Fourth amendment (“Fourth Amendment”) to the professional services agreement (“Agreement”) is made and entered into in the County of Ventura, State of California, this 8th day of November, 2021 by and between the City of Oxnard, a municipal corporation (“City”), and WKE, Inc. (“Consultant”). This Fourth Amendment amends the Agreement entered into on July 24, 2018, by City and Consultant. The Agreement previously has been amended on June 4, 2019, by a First Amendment, on April 20, 2020, by a Second Amendment, and on July 6, 2021, by a Third Amendment.

City and Consultant agree as follows:

1. The date in Section 12 of the Agreement is hereby amended to “June 30, 2023”.
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

WKE, Inc.

Daniel Willhite Nov 16, 2021
☐ John C. Zaragoza, Mayor¹ _____ Date
☐ Alexander Nguyen, City Manager
☒ Daniel Willhite, Purchasing Manager
☐ _____, Buyer

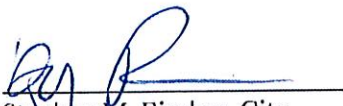
 11/15/21
Wei Koo, President Date
 11/08/2021
Carlos, Cadena Date
Senior Vice President

ATTEST:

N/A

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

APPROVED AS TO FORM:

 11/15/21
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.

Fifth Amendment to Agreement A-8094 with WKE, Inc. for the Rice Avenue at Fifth Street/State Route 34 Grade Separation

City Council
May 3, 2022

Tatiana B. Arnaout, P.E.
City Engineer

That the City Council approve and authorize the Mayor to execute a Fifth Amendment with WKE, Inc. Agreement A-8094 in the amount of \$495,559.48, for a new not to exceed contract value of \$9,500,957.18 to complete the Plans, Specifications and Estimates for the Rice Avenue at Fifth Street/State Route 34 Grade Separation, Project 133101.

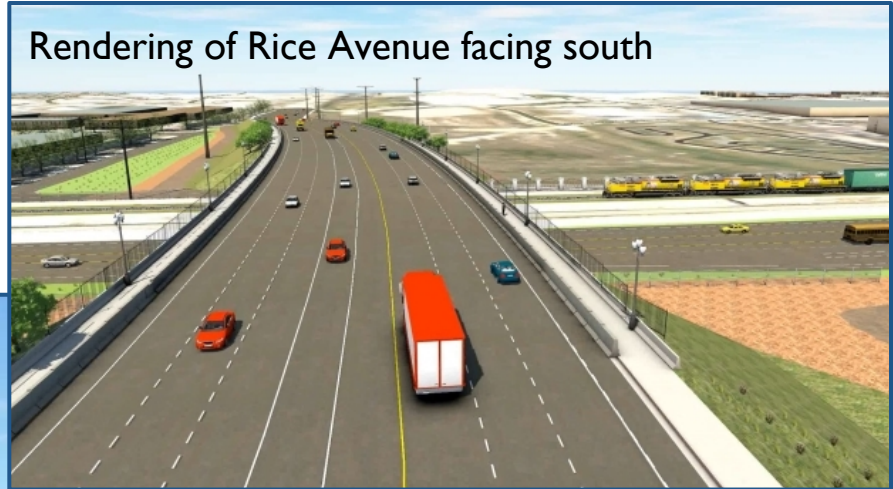
This project will construct a new six-lane bridge over the Railroad tracks and intersection of Rice Avenue, Fifth Street, and State Route 34.

The project will enhance safety by eliminating conflicts among vehicles, pedestrians, bicyclists and trains at the Union Pacific Railroad crossing. The project will also relieve congestion, reduce emissions and facilitate commerce by improving access to the Port of Hueneme.

The scope will align Rice Avenue approximately 250-feet east of the existing Rice Avenue between Sturgis Road and Wooley Road. The project will also include:

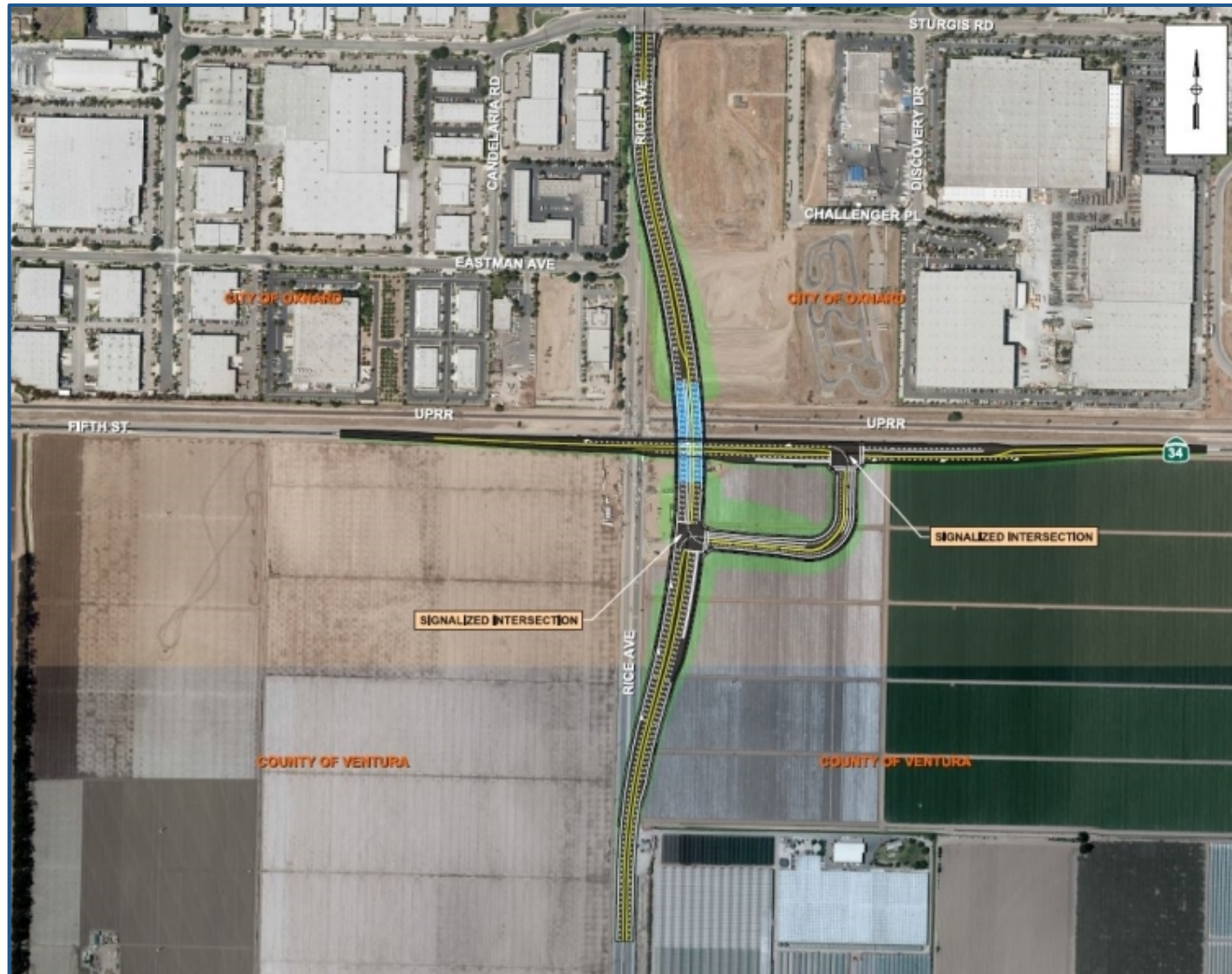
- New bridge structure
- One connector road
- Two new traffic signals and existing traffic signal improvements
- Class II on-street bicycle lanes
- Sidewalks and ADA improvements

Rendering of Rice Avenue facing south



Rendering of State Route 34/Fifth Street facing west





Timeline of WKE, Inc. Agreement A-8094 and Amendments:

- 2018 - WKE, Inc. Agreement A-8094
\$5,362,125
- 2019 - First Amendment
\$ 490,074
- 2020 - Second Amendment (alignment shift)
\$3,056,880
- 2021 - Third Amendment
\$ 96,316
- 2021 - Fourth Amendment (time extension)
\$ 0
- 2022 - Fifth Amendment (proposed)
\$ 495,559
- Total proposed contract:
\$9,500,957

The PS&E phase is substantially complete, however additional work is necessary:

Oil Well Abandonment:

- Prepare detailed drawings and specifications for two oil wells
- Coordinate with owner, Shell Oil SWEPI LP, CalGEM (regulatory agency), Caltrans, City, and County to process the necessary permits and approvals

Dewatering Analysis:

- Evaluate rate of groundwater discharge, review geotechnical and geologic data
- Present findings and recommendations in a memorandum

Pile Drivability Study:

- Incorporate data for the hammer/driving system used for the Rice Avenue/101 project, and/or
- Incorporate a presumptive hammer/driving system selected by the geotechnical consultant

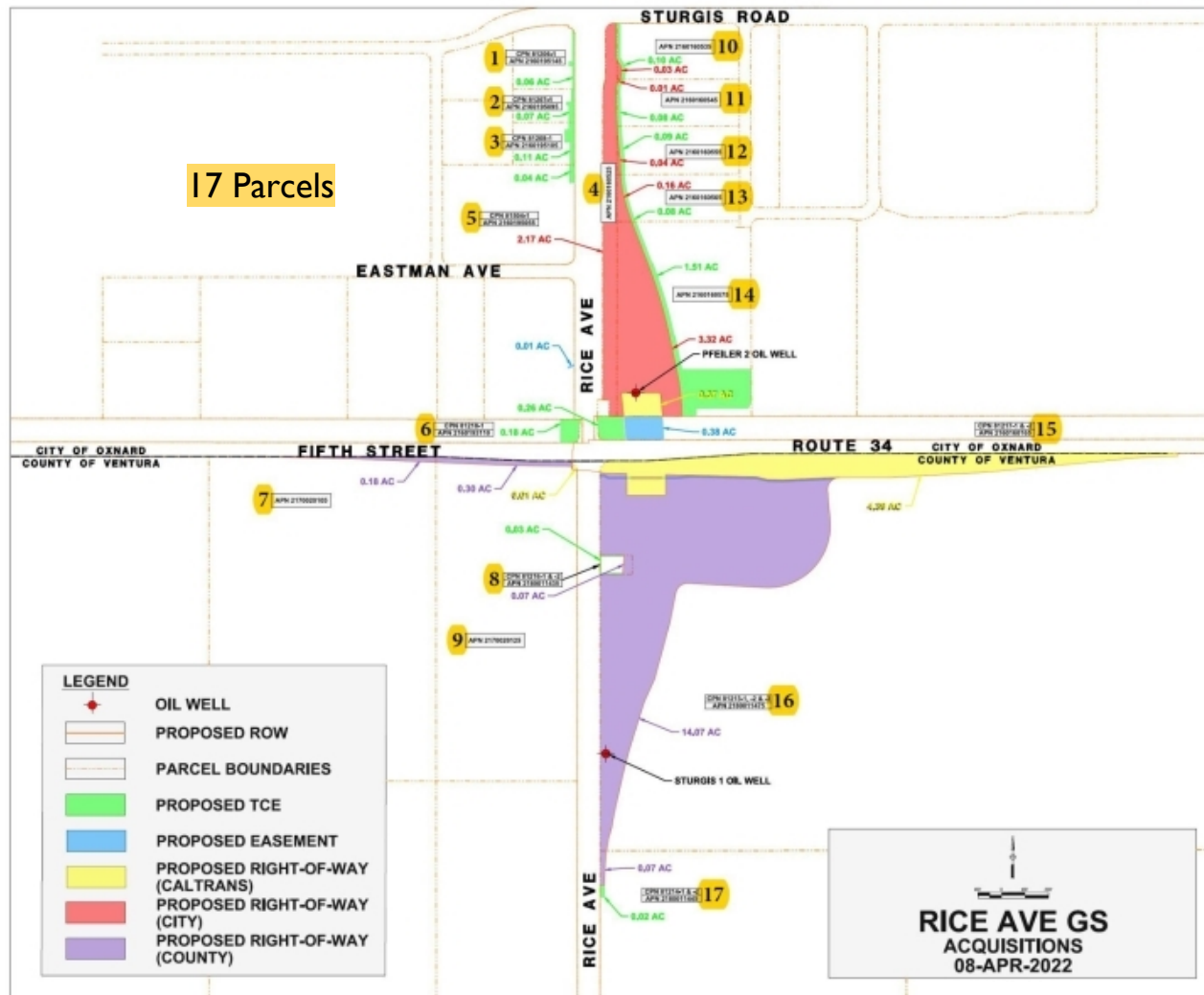
Bid Package:

- Coordinate with City staff to prepare the construction bid package

Project will acquire 17 parcels from 10 property owners (in fee and temporary easements).

Of the 10 property owners receiving offers:

- One closes escrow in April 2022.
- Six are in negotiation. If negotiation fails, Caltrans will pursue condemnation.
- Three are estimated to receive offers by summer 2022.



In order to complete right of way, the following additional work is necessary:

- Additional survey
- Revisions to appraisal maps
- Additional independent appraisal reviews (required for condemnations)
- Exhibits for Resolution of Necessity requests (required for condemnations)
- Additional documentation and engineering drawings for offers
- Data collection on generator facility recently installed by UWCD
- Additional exhibits and documents for Union Pacific Railroad (UPRR) parcels
- Assistance during negotiations for the UPRR Construction Agreement

Proposed Schedule:

***Tentative schedule is dependent upon the condemnation process.**

Condemnation requires a CTC vote for a Resolution of Necessity and subsequent court proceedings (for each property owner).

August 2022 - CTC Vote for Resolution of Necessity (if negotiations fail)

October 2022 - Caltrans approve the 100% Plans, Specifications, and Estimates

March 2023* - Caltrans certifies Right of Way

June 2023* - City request allocation for construction funding from the CTC

July 2023* - Advertise for bids

December 2023* - Construction contract award

The total cost for this Amendment to Agreement A-8094 with WKE, Inc. is an additional \$495,559.48 for a total agreement value of \$9,500,957.18. There is sufficient budget appropriation, which is fully funded by the Trade Corridor Enhancement Program grant (Fund 189), in Project 133101, in the approved Fiscal Year 2021-22 budget. The Rice Avenue at Fifth Street/State Route 34 Grade Separation, Project No. 133101 has an available project budget balance of approximately \$4,450,000 from the Trade Corridor Enhancement Program grant Fund (189) and \$759,000 from the Circulation System Improvement Fees Fund (354).



QUESTIONS